



# भारत का राजपत्र The Gazette of India

सी.जी.-डी.एल.-अ.-19012024-251163  
CG-DL-E-19012024-251163

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 26] नई दिल्ली, शुक्रवार, दिसम्बर 8, 2023/अग्रहायण 17, 1945 (शक)

No. 26] NEW DELHI, FRIDAY, DECEMBER 8, 2023/AGRAHAYNA 17, 1945 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## RAJYA SABHA

The following Bills have been introduced in the Rajya Sabha on the 8th December, 2023:—

### BILL NO. LXXVI OF 2022

*A Bill to repeal the Waqf Act, 1995.*

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Waqf (Repeal) Act, 2022.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. This Waqf Act, 1995 is hereby repealed.

Repeal of Act  
43 of 1995.

## STATEMENT OF OBJECTS AND REASONS

The Waqf Act, 1954 was predicated on the management of waqf; i.e. holding certain property and preserving it for the confined benefit of certain philanthropy and prohibiting any use or disposition of it outside that specific objective and had sought itself to be a measure towards public welfare and as a benevolent institution. Subsequently, some infirmities pertaining to the management of the waqf was felt and the Wakf Act, 1954 was later repealed and the new Waqf Act was passed in 1995 (hereinafter referred to as "the Act") giving more powers to waqf boards. Amendments were later introduced in the year 2013, thereby arming the waqf with limitless and absolute autonomy in the matters relating to it.

Due to these powers, the Waqf Boards is now the third largest owner of land after the Indian Armed Forces and the Railways and their share of land has doubled since 2009. The enabling provisions enshrined in section 40 of the Waqf Act, 1995 gives powers to the Board to acquire, issue notices or hold an enquiry into the ownership of the property that it has reasons to believe belongs to the Waqf. The board is allowed to conduct an independent enquiry into the matter and arrive at a conclusion regarding the ownership of the contended property. The decision of the board is final unless revoked by a specific order of the Tribunal and the only remedy available to the aggrieved is to approach the Tribunal with a suit which is barred by a limitation of only one month. There appears to be no cogent reason as to why the Act itself should make an exception from the established principles of the Limitation Act, 1963. Appeals to the orders of the Tribunal are not maintainable in other Court of Law. Further, the burden of proof regarding the ownership of a land contended to be a property of Waqf falls on the person holding the possession of that land. Should the incumbent fail to prove his title to the satisfaction of the Board, such land or property shall have to be vacated. Such provisions invariably amount to depriving the citizens of their rights to seek constitutional remedies and are gross violation of natural justice. As such, it has been felt that there is a dearth of adequate safeguard to other communities and especially poor people for protection of their properties from its inclusion in Waqf.

Waqf Board has simultaneously been afforded with unbridled power in terms of registering any property, no other trust, *mutths*, *akharas* or a society is conferred with even remotely parallel autonomy in their affairs. Registration of property is an important corner stone of personal rights guaranteed in the Indian Constitution. The Waqf Act is discriminatory both in intent and application while retaining a charitable optics and is in stark violation of article 13(2) of the Indian Constitution that prohibits the State from making laws that abridge the rights conferred to the citizens by Part III of the Indian Constitution.

The Act as amended from time to time is also against the autonomy of the State in matters falling within its domain. Sections 28 and 29 of the Act provides overriding powers to the Waqf Board and its CEO to compel the State machinery to act in a manner consistent with the interest of the Board. Section 14 of the Act provides that the Board shall consist of a Chairperson, a member amongst the Muslims who has professional experience in town planning, finance, agriculture, etc., a recognized scholar in Shia and Sunni Theology nominated by the State Government, one person amongst the Muslims nominated by the State Government who is an officer of the State Government (but not below the rank of Joint Secretary) and not more than two members will be elected by the electoral college constituting; Muslim Members of the Parliament from the particular state, Muslim Members of the State Legislature, Muslim Members of the Bar Council of the concerned state and mutawallis having an annual income of one lakh rupees and above. The provisions of the Act makes it mandatory that the appointment of members of the Board is restricted to Muslim community only even when the members of the Board are entitled to the status of public servants which arguably is in contravention of the spirit of equality in employment. Such provisions are intended to further the interest of the Muslim community and have successfully served in unconstrained amassment of property in the name of Muslim charity.

Further, many provisions of the Act are repugnant or constitutionally infirm. In so far as the other entities such as *mutths*, *akhara* and other trusts are concerned which may also

bear a religious undertone, the Act fails to establish any reasonable classification that may corroborate the conferment of such special status to the waqf. It is an established fact that the Constitution is the supreme law of the land and therefore it cannot be undermined by the Waqf Act, 1995.

In the light of above and for the purpose of achieving a more equitable arrangement and treatment of bodies such as waqf and other recognised religious entities established under similar intent, and to curb arbitrary amassment of properties by the waqf in the name of muslim charity, the aforesaid Wakf Act, 1995 as amended till date is proposed to be repealed.

Hence this Bill.

HARNATH SINGH YADAV

## BILL NO. XLIII OF 2023

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

Short title  
and  
commencement.

**1.** (1) This Act may be called the Constitution (Amendment), Act 2023.

(2) It shall come into force at once.

Amendment  
of Article  
348.

**2.** In article 348 of the Constitution, in clause (1),—

(i) for sub-clause (a), the following shall be substituted, namely:—

"(a) all proceedings in the Supreme Court shall be conducted in the official language of the Union, namely, Hindi and in all the regional languages listed in the Eighth Schedule of the Constitution, and a transcript thereof shall be translated into and made available in the English language.

(b) all proceedings in every High Court shall be conducted in the official language of the Union, namely, Hindi and in the official language of the respective State, and a

transcript thereof shall be translated into and made available in the English language.

(ii) clause (b) shall be re-numbered as "clause (c)" and the following shall be substituted, namely:—

"(c) the authoritative texts *i.e.*,—

(i) of all Bills to be introduced or amendments thereto to be moved in either House of Parliament or in the House or either House of the Legislature of a State,

(ii) of all Acts passed by Parliament or the Legislature of a State and of all Ordinances promulgated by the President or the Governor of a State, and

(iii) of all orders, rules, regulations and byelaws issued under this Constitution or under any law made by Parliament or the Legislature of a State,

shall be bilingual, *i.e.*, in Hindi and English languages, and shall also be translated into and made available in all other languages listed in the Eighth Schedule of the Constitution."

3. Clause (2) shall be omitted.

4. Clause (3) shall be omitted.

## STATEMENT OF OBJECTS AND REASONS

Seventy-four years after independence, the linguistic shadow of the colonial heritage of the country still remains. Article 348 of the Constitution stipulates that all proceedings before the Supreme Court and each High Court shall be conducted in English. After independence, our constituents expressed the need to promote Hindi along with other regional languages in our country's official functions. The use of English for certain purposes was originally agreed for a period of 15 years.

2. In addition of this, the Constitution empowers the President to set up an Official Languages Commission to resolve language-related issues and to promote Hindi language. After that, Commissions were formed, and numerous reports were prepared, several orders were issued, and attempts were made to implement the provisions of the Official Languages Commission. However, the final expected result was not obtained. The rapid adoption of English as the official language has led to the neglect of Hindi as well as other regional languages of the masses. Moreover, the issue is not only about promotion of Hindi as Official Language, but simultaneous promotion of other regional languages of the country on equal terms.

3. Even today, we are unable to maintain and promote our rich treasure of regional languages. The languages of all rich nations continue to thrive, but the diverse languages of our country are declining. Working in Hindi and other regional languages can bring this diverse nation together. The most urgent need now is to initiate the promotion of our regional languages for connecting with the masses and dispensing equity and justice as enshrined in the basis structure of the Constitution. Concrete initiatives need to be taken in this direction in order to promote regional languages to connect the people of our country. To achieve this and to get the expected results from the Official Languages Commission, what is needed today is to enforce usage of Hindi as well as other regional languages in the official working of the country, especially in the Supreme Court and the High Courts of the country, who are assigned with the duty of dispensing justice to the citizens of our country.

4. Furthermore, Law is taught in Hindi and in regional languages in all educational institutions across the country and students are pursuing law degrees in Hindi and regional languages as well. But English being the language of the Supreme Court and High Courts of India, several law graduates are compelled to file cases in English when practising before the Supreme and High Courts. Because, these lawyers who have studied law in Hindi or in regional languages are not competent enough to explain cases in English, they face discrimination in their practice in Supreme Court and High Courts of India. Such discrimination is violative of their fundamental right to practice their profession, as enshrined in article 19(1)(g) of the Constitution.

5. The Bill intends to amend the provisions of article 348 of the Constitution to do away with the compulsory use of English in the proceedings of Supreme Court and High Courts and for the authoritative texts of the Parliament, State Legislatures and all the rules, regulations, Hindi and English along with translations available in all the regional languages listed in the Eighth Schedule of the Constitution.

Hence, this Bill.

HARNATH SINGH YADAV

## BILL NO. LXVIII OF 2022

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2022.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In the Eighth Schedule to the Constitution, the existing entries 4 to 22 shall be re-numbered as entries 5 to 23, respectively and before entry 5 as so re-numbered, the following entry shall be inserted, namely:—

Amendment  
of Eighth  
Schedule.

"4. Chhattishgarhi."

## STATEMENT OF OBJECTS AND REASONS

The Constitution of India, through the Eighth Schedule, provides for the enrichment and promotion of languages. Along the same lines, there is a growing need and urgency to include Chhattisgarhi language in the Eighth Schedule to the Constitution. Chhattisgarhi dialect has a history of its own. The grammar of the dialect, prepared by Hiralal Kavyopadhyay and edited and translated by George A.K. Grierson, was published in the Journal of the Asiatic Society of Bengal in 1890. A wide range of quality literature is also available in Chhattisgarhi and the same is continuously increasing. While Chhattisgarhi sub-dialects and some other languages are also prevalent in the State, the majority of the residents use Chhattisgarhi as their language and the same is also a language of communication with those speaking other regional dialects. Apart from Hindi, Chhattisgarhi has been adopted as a State Official Language and Chhattisgarhi Official Language Day is celebrated every year on 28th November in the State. Further, the State Government of Chhattisgarh, has also constituted Chhattisgarh Official Language Commission to preserve the tradition and for the development of overall linguistic diversity of the State according to the public sentiments and necessity. Chhattisgarhi is spoken not only by the 2.75 crore residents of Chhattisgarh, but also by residents in neighbouring districts in the States of Madhya Pradesh, Maharashtra, Telangana and Odisha. Addition of Chhattisgarhi language to the Eighth Schedule will help the language's development and will enable the 2.75 crore people of the State to take examinations for public service in Chhattisgarhi.

Hence this Bill.

RAJEEV SHUKLA



## BILL NO. CI OF 2022

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2022.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 16 of the Constitution, for clause 4A, the following new clause shall be substituted, namely:—

Amendment of  
Article 16.

"(4A) Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion, with consequential seniority, to any class or classes of posts in the services under the State in favour of the Scheduled Castes, the Scheduled Tribes or Other Backward Classes which, in the opinion of the State, are not adequately represented in the services under the State."

## STATEMENT OF OBJECTS AND REASONS

The Constitution being a legal as well as a social document should be dynamic in nature. With the changing needs of society and the foray of new ideas, the Constitution must change from time to time for the welfare of the people of India. If existing impediments to the welfare of the people are not removed, the Constitution would suffer virtual atrophy.

2. The Constitution (Seventy-seventh Amendment) Act, 1995 inserted clause (4A) to article 16 to extend the benefit of reservations in promotions as clause (4) is confined only to reservation in initial appointments. Parliament felt that it was necessary to continue providing reservations in promotion posts as well in the case of the Scheduled Castes and Scheduled Tribes. However, the said amendment did not consider the case of Other Backward Classes (OBCs).

3. The discrimination faced by the OBCs is comparable and a similar level to the discrimination faced by the Scheduled Castes and the Scheduled Tribes. The abhorrent and inhuman system of classification of human beings merely based on their birth, over which they obviously had no control, led to systemic oppression and discrimination. The effect of this systemic discrimination was not just economic, it was social and psychological which was the primary reason to insert article 16(4) in the Constitution.

4. The founding fathers of our Constitution have designedly couched articles 14, 15 and 16 in comprehensive phraseology so that the frail and emaciated sections of the people living in poverty, rearing in obscurity, possessing no wealth or influence, having no education, much less high education and suffering from social repression and oppression should not be denied equality before law and equal protection of the laws or subjected to any prohibition of discrimination on grounds of religion, race, caste, sex or place of birth. These people who have been historically ostracized from mainstream education and employment should be afforded equal opportunity in the matters of public employment. OBCs are constitutionally recognised to be socially backward but still there are no enabling provisions to provide reservations for them in promotional posts. Due to such non-inclusion, the OBCs are vastly unrepresented at the higher posts of the administration as they were never considered for promotions due to social status. Even the States which are interested in granting reservations in promotional posts for OBCs cannot do so for lack of enabling provision in the Constitution.

5. Recently, Parliament has extended the benefit of reservations to forward castes also in the category of economically weaker sections.

6. Due to absence of the aforesaid Constitutional mandate in promotions, the real oppressed and downtrodden are not brought into the mainstream till today. Mere entry into service is not sufficient. Only when the OBCs are duly represented in promotional posts, a truly representative administration could be achieved and real substantive equality is enabled. Historical injustice is still meted out to backward classes of citizens and their due share in jobs in the higher posts is denied and they are not adequately represented even till today.

7. Therefore, article 16 of the Constitution of India must be further amended to grant reservations in promotional posts with consequential seniority for the backward classes of citizens and this would result in true social justice as it would ensure adequate representation of the backward class of citizens in higher offices of the administration.

8. It is, therefore, proposed to amend the Constitution to achieve the above objectives.

P. WILSON

## BILL NO. XXI OF 2023

*A Bill further to amend the Constitution of India.*

BE it enacted by the Parliament in the Seventy-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment), Act, 2023.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In the Seventh Schedule to the Constitution:—

Amendment  
of the Seventh  
Schedule.

(a) In List I-Union List, entry 69 shall be omitted;

(b) In List III-Concurrent List, after entry 47, the following entry shall be inserted, namely:—

"48. Census"

## STATEMENT OF OBJECTS AND REASONS

1. An objective and thorough census across the country will give a correct picture of the representation of castes and communities in mainstream education and employment. Only based on such a scientific and empirical data can we make targeted, effective, affirmative action policies to uplift the really backward communities.

2. The states are not in a position to grant any reservation to any class or communities for want of empirical data and any reservation laws enacted by the states are being struck down by Constitutional Courts on the ground of lack of empirical data. Thus, the mandate of reservation by the Constitution is being defeated.

3. The states are in need of an accurate caste census data to enact targeted welfare measures on the basis of caste and community. Ultimately, this leads to perpetuating the *status quo* and social injustice. The data collected 92 years back cannot determine the entitlement and share of communities in this country.

4. The 73rd and 74th constitutional amendments advocated the need of strengthening the local bodies and parts IX and IXA of the Constitution provided for a robust framework for conducting local body elections. The prime objective was democratic decentralization of power and participation of the oppressed and backward classes in governance. The amendments provided for mandatory reservation for Scheduled Caste and Schedule Tribe communities and women belonging to these communities. On the other hand, for backward classes, the articles 243-D(6) and 243-T(6) were only enabling in nature. When States have attempted to apply these provisions, there were legal obstacles due to which reservations granted to Other Backward Classes (OBC) communities in local bodies have been struck down by the Hon'ble Supreme Court. The impediment to the states to grant OBC reservations was due to want of 'empirical data'. With the advent of 105th constitutional amendment and insertion of article 342A(3), a State or a Union Territory can gather information for ascertaining political backwardness of the backward classes and can specify the proportion of the reservation required local body-wise and can prepare and maintain for its own purposes, a list of socially and educationally backward classes.

5. However, the entry 69 in List I of the Seventh Schedule of the Constitution empowers only the Union to conduct census. Since, a state or a Union Territory is not empowered to conduct their own census, the population of each class or community on the basis of local units cannot be ascertained by the states and consequentially, maintaining an accurate head count based upon the list of backward classes contemplated under article 342A(3) would not be possible.

6. The objectives of democratic decentralization are not only to bring governance closer to the people, but also to make it more participatory, inclusive and accountable to the weaker sections of the society. Reservations in local self-government are intended to directly benefit the community as a whole rather than just the elected representatives. Despite the fact that Parts IX and IXA were introduced in the Constitution 30 years ago, reservation in politics and sharing of political power is still a distant dream, leaving the OBCs unrepresented in the local self-governments.

7. Therefore, placing the entry "census" in the Concurrent List would enable both the Union and the states to conduct their own census. The power to conduct a headcount by the states themselves will not only be useful for maintaining an accurate list of all classes including backward classes under article 342A(3), and collect empirical data of communities on the basis of the local units and to grant reservations in local bodies, but also for other

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targeted welfare measures. This will enable the states to implement appropriate affirmative and welfare measures for all castes and communities based upon their due entitlement and share. The states can then grant reservations in accordance with this data, which would be constitutionally and legally tenable and therefore avoid judicial intervention in the grant of reservations.

8. It is therefore proposed to amend the Constitution to achieve the above objectives.

P. WILSON

## BILL NO. XLI OF 2023

*A Bill to provide for qualifications, method of appointment and other conditions of service of the Chief Election Commissioner, Election Commissioners and Regional Election Commissioners establishment of a permanent Secretariat and staff for the Election Commission of India and expenses of the Commission and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

Short title and commencement.

1. (1) This Act may be called the Election Commission of India (Reforms) Act, 2023.
- (2) It shall come into force with immediate effect.

Definitions.

2. In this Act, unless the context otherwise requires,—
  - (a) "Chairperson" means the Chairperson of the Selection Committee;
  - (b) "Chief Election Commissioner" means the Chief Election Commissioner appointed under clause (2) of article 324 of the Constitution;

(c) "Commission" or "Election Commission" means the Election Commission of India established under clause (1) of article 324 of the Constitution;

(d) "Eastern Regional Zone" means the zone consisting of the States of West Bengal, Bihar, Odisha, Jharkhand, Assam, Sikkim, Arunachal Pradesh, Nagaland, Meghalaya, Manipur, Tripura, Mizoram and the Union Territory of Andaman and Nicobar Islands;

(e) "Election Commissioner" means the Election Commissioner appointed under clause (2) of article 324 of the Constitution;

(f) "Notification" means a notification published in the Official Gazette and the expression "notify" shall be construed accordingly;

(g) "Northern Regional Zone" means the zone consisting of the States of Uttar Pradesh, Uttarakhand, Rajasthan, Punjab, Haryana, Himachal Pradesh and the Union Territories of Jammu & Kashmir, Ladakh, Delhi and Chandigarh;

(h) "prescribed" means prescribed by rules made under this Act;

(i) "Regional Election Commissioner" means a Regional Election Commissioner appointed under clause (4) of article 324 of the Constitution;

(j) "Selection Committee" means the Committee constituted under section 5 of this Act;

(k) "Southern Regional Zone" means the zone consisting of the States of Tamil Nadu, Kerala, Karnataka, Andhra Pradesh, Telangana and the Union Territories of Puducherry and Lakshadweep; and

(l) "Western Regional Zone" means the zone consisting of the States of Maharashtra, Madhya Pradesh, Chhattisgarh, Gujarat, Goa and the Union Territory of Dadra and Nagar Haveli and Daman and Diu.

## CHAPTER II

### APPOINTMENT OF CHIEF ELECTION COMMISSIONER, ELECTION COMMISSIONERS AND REGIONAL ELECTION COMMISSIONERS

**3.** (1) The Election Commission of India established under clause (1) of article 324 of the Constitution shall comprise of a Chief Election Commissioner and two or more Election Commissioner(s) in even number.

Appointment of Chief Election Commissioner, Election Commissioners and Regional Election Commissioners.

(2) There shall be appointed one or more Regional Election Commissioner(s) for each of the regional zones, namely, the Northern Regional Zone, Southern Regional Zone, Eastern Regional Zone and Western Regional Zone, under clause (4) of article 324 of the Constitution.

**4.** (1) A person shall not be qualified for appointment as a Chief Election Commissioner, Election Commissioner or Regional Election Commissioner unless, he or she—

Qualifications and disqualifications for appointment as Chief Election Commissioner, Election Commissioners and Regional Election Commissioners.

(a) is a citizen of India;

(b) has attained the age of thirty-five years;

(c) is, in the opinion of the Selection Committee, established under section 5 of this Act, a person of impeccable integrity; and

(d) has, in the opinion of the Selection Committee, outstanding ability in matters of election, law or public administration:

Provided that at least one of the Election Commissioners shall be a person who has practised law for not less than ten years before any High Court or the Supreme Court of India, or is in the opinion of the Selection Committee, an eminent jurist.

(2) A person shall not be eligible for appointment as Chief Election Commissioner, Election Commissioner or Regional Election Commissioner, if he or she—

- (a) has attained the age of sixty-two years; or
- (b) is or has been a Member of Parliament, Legislative Assembly or Legislative Council of a State or any local authority; or
- (c) is of unsound mind and stands so declared by a competent court; or
- (d) is an undischarged insolvent or has applied to be adjudicated as an insolvent and such application is pending; or
- (e) charges have been framed against him or her by a Court, for any offence involving a punishment of one year or more; or
- (f) is facing any criminal investigation for election related offences; or
- (g) has been in the employment of the Central or State Government or any Central or State owned undertaking or body or corporation or agency, or any local authority for the preceding five years; or
- (h) has been a Judge of any court in the preceding five years; or
- (i) is or was an office bearer of any registered political party.

Selection  
committee to  
recommend  
appointment  
of Chief  
Election  
Commissioner,  
Election  
Commissioners  
and Regional  
Election  
Commissioners.

5. (1) The Chief Election Commissioner, Election Commissioners and Regional Election Commissioners shall be appointed by the President in accordance with the recommendations of a Selection Committee consisting of—

- (a) the Prime Minister—Chairperson;
- (b) the Union Minister for Law and Justice—Member;
- (c) the Leader of Opposition in the House of the People—Member;

Provided that in case, there is no such Leader of Opposition, the leader of the party having the largest numerical strength amongst the opposition parties in the House of the People;

(d) the Chief Justice of India or a Judge of the Supreme Court nominated by him—Member;

(e) one eminent person from the civil society, as recommended by the Chairperson and Members referred to in clauses (a) to (d) above, to be nominated by the President—Member.

(2) The Selection Committee shall constitute a Search Committee consisting of at least seven persons of impeccable integrity and having special knowledge and expertise in matters relating to public administration, election, vigilance, finance, law, or in any other matter which, in the opinion of the Selection Committee, may be useful in selecting candidates for the posts of Chief Election Commissioner, Election Commissioner and Regional Election Commissioner.

(3) The Search Committee constituted under sub-section (2) shall call for applications and draw up a panel of persons eligible for appointment to the posts of Chief Election Commissioner, Election Commissioner and Regional Election Commissioner.

(4) The Selection Committee shall, on the basis of a majority vote, select and recommend names out of the panel drawn up by the Search Committee to the President for appointment to the posts of Chief Election Commissioner, Election Commissioner and Regional Election Commissioner.

(5) The Selection Committee shall regulate its own procedure.

(6) The Selection Committee shall also recommend to the President the number of Election Commissioners or Regional Election Commissioners to be appointed, from time to time.



(7) The term of the Search Committee referred to in sub-section (2), the fees and allowances payable to its members shall be such as may be prescribed by the Selection Committee, by rules made under this Act.

6. The President shall take or cause to be taken all necessary steps for the appointment of a Chief Election Commissioner, Election Commissioner(s) or Regional Election Commissioner(s) at least six months before the arising of a vacancy in accordance with the procedure laid down in this Act.

Filling up of vacancies of Chief Election Commissioner, Election Commissioner and Regional Election Commissioner.

7. The Chief Election Commissioner, Election Commissioners and Regional Election Commissioners shall, on the recommendations of the Selection Committee, be appointed by the President by warrant under his or her hand and seal and hold office as such for a term of three years from the date on which he or she enters upon the office or until he or she attains the age of sixty-five years, whichever is earlier:

Term of office of Chief Election Commissioner, Election Commissioners and Regional Election Commissioners.

Provided that he or she may—

(a) by writing under his or her hand addressed to the President resign his or her office; or

(b) be removed from his or her office in the manner provided under clause (5) of article 324 of the Constitution.

*Explanation.*—For the Purpose of this section, the term of three years in respect of the Chief Election Commissioner or an Election Commissioner or a Regional Election Commissioner holding office before the commencement of this Act, shall be computed from the date on which he or she had assumed office.

8. (1) The functions of the Election Commission of India shall be vested with the Chief Election Commissioner and the Election Commissioners.

Functions of the Election Commission of India.

(2) The Election Commission may, by unanimous decision, regulate the procedure for transaction of its business as also allocation of its business amongst the Chief Election Commissioner and other Election Commissioners.

(3) Save as provided in sub-section (2), all business of the Election Commission shall, as far as possible, be transacted unanimously:

Provided that if the Chief Election Commissioner and Election Commissioners differ in opinion on any matter, such matter shall be decided according to the opinion of the majority.

43 of 1950.  
43 of 1951.

(4) The Election Commission shall carry out its functions in accordance with the provisions of the Constitution, Representation of the People Act, 1950, the Representation of the People Act, 1951 and all applicable laws.

(5) A Regional Election Commissioner shall assist and aid the Election Commission in the discharge of its functions within his or her regional zone by performing such tasks as may be assigned to him or her from time to time by the Commission, implementing the orders of the Commission and submitting such reports as he or she deems fit pertaining to the conduct of elections within his or her regional zone.

(6) A Regional Election Commissioner shall be bound by the orders of the Election Commission.

(7) The Election Commission shall exercise complete superintendence and control over the Chief Electoral officers, District Election Officers, Returning Officers, Polling Officers and all officials appointed for the conduct of elections under the Representation of the People Act, 1951 for the purposes of and during the conduct of elections.

43 of 1951.

(8) Subject to the provisions of the Representation of the People Act, 1950, the Representation of the People Act, 1951 and other applicable laws, the Election Commission shall, before every election to the House of the People Legislative Assembly of a State or Legislative Council of a State having such Council, publish a Model Code of Conduct for the candidates, political parties, Government servants, press and media and other persons, whose conduct in the opinion of the Commission, must be regulated. 43 of 1950.  
43 of 1951.

(9) The Chief Election Commissioner, Election Commissioner and Regional Election Commissioner shall act in good faith in order to hold free and fair elections and shall exercise independent judgement.

Salaries and  
allowances.

9. (1) There shall be paid to the Chief Election Commissioner and other Election Commissioners a salary which is equal to the salary of a Judge of the Supreme Court:

Provided that if a person who, before the date of assuming office as the Chief Election Commissioner or, as the case may be, an Election Commissioner, was in receipt of, or being eligible so to do, had election to draw, a pension (other than a disability or wound pension) in respect of any previous service under the Government of the Union or under the Government of a State, subject to the provisions of clause (g) of sub-section (2) of section of this Act, his or her salary in respect of service as the Chief Election Commissioner or as the case may be, an Election Commissioner shall be reduced—

(a) by the amount of that pension; and

(b) if he or she had, before assuming office, received, *in lieu* of a portion of the pension due to him or her in respect of such previous service, the commuted value thereof, by the amount of that portion of the pension.

(2) There shall be paid to the Regional Election Commissioner a salary which is equal to the salary of a Judge of the High Court:

Provided that if a person who, before the date of assuming office as the Regional Election Commissioner was in receipt of, or being eligible so to do, had election to draw, a pension (other than a disability or wound pension) in respect of any previous service under the Government of the Union or under the Government of a State, subject to the provisions of clause (g) of sub-section (2) of section of this Act, his or her salary in respect of service as the Regional Election Commissioner shall be reduced—

(a) by the amount of that pension; and

(b) if he or she had, before assuming office, received, *in lieu* of a portion of the pension due to him or her in respect of such previous service, the commuted value thereof, by the amount of that portion of the pension.

Leave.

10. (1) Any other person who is appointed as the Chief Election Commissioner or an Election Commissioner or a Regional Election Commissioner may be granted leave in accordance with such rules as are for the time being applicable to a member of the Indian Administrative Service.

(2) The power to grant or refuse leave to the Chief Election Commissioner or an Election Commissioner or a Regional Election Commissioner and to revoke or curtail leave granted to him or her, shall vest in the President.

Pension  
payable to  
Election  
Commissioners.

11. (1) Where the Chief Election Commissioner or an Election Commissioner demits office in any manner as specified under section 7 of this Act, he or she shall, on such demission be entitled to—

(a) a pension which is equal to the pension payable to a Judge of the Supreme Court in accordance with the provisions of Part III of the Schedule to the Supreme Court Judges (Conditions of Service) Act, 1958, as amended from time to time; and 41 of 1958.

(b) such pension (including commutation of pension), family pension and gratuity as are admissible to a Judge of the Supreme Court under the said Act and the rules made thereunder, as amended from time to time.

(2) Where the Regional Election Commissioner demits office, he or she shall, on such demission be entitled to—

28 of 1954.

(a) a pension which is equal to the pension payable to a Judge of the High Court in accordance with the provisions of Part III of the Schedule to the High Court Judges (Salaries and Conditions of Service) Act, 1954, as amended from time to time; and

(b) such pension (including commutation of pension), family pension and gratuity as are admissible to a Judge of the High Court under the said Act and the rules made thereunder, as amended from time to time.

(3) Except where the Chief Election Commissioner or an Election Commissioner or a Regional Election Commissioner demits office by resignation, he or she shall be deemed, for the purposes of this Act, to have demitted his or her office if, and only if,—

(a) he or she has completed the term of office specified in section 7, or

(b) he or she has attained the age of sixty-five years, or

(c) his or her demission of office is medically certified to be necessitated by ill-health.

**12.** Save as otherwise provided in this Act, the conditions of service relating to travelling allowance, provision of rent-free residence and exemption from payment of income-tax on the value of such rent-free residence, conveyance facilities, sumptuary allowance, medical facilities and such other conditions of service for—

Other conditions of service.

41 of 1958.

(i) The Chief Election Commissioner and Election Commissioners shall be as applicable to a Judge of the Supreme Court under Chapter IV of the Supreme Court Judges (Conditions of Service) Act, 1958 and the rules made thereunder, as amended from time to time; and

28 of 1954.

(ii) for a Regional Election Commissioner shall be as applicable to a Judge of a High Court under Chapter IV of the High Court Judges (Salaries and Conditions of Service) Act, 1954 and rules made thereunder, as amended from time to time.

**13.** (1) The Election Commission shall have a permanent Secretariat comprising of such number and categories of officers and other employees as may be determined by the Commission in consultation with the Central Government to assist the Commission in the discharge of its functions by rules made under this Act.

Permanent Secretariat and staff of the Commission.

(2) The recruitment of the officers and other employees of the Commission shall be made by the Commission in accordance with rules that may be prescribed by the Commission under this Act in consultation with the Central Government.

(3) The officers and other employees of the Commission shall discharge their functions under the general superintendence, control and direction of the Commission.

(4) The salaries and allowances and other conditions of service of the officers and other employees of the Commission shall be prescribed by rules framed by the Commission in consultation with the Central Government.

(5) Subject to sub-section (3), the Chief Election Commissioner shall exercise administrative control over the officers and other employees of the Commission.

**14.** (1) The expenses of the Election Commission of India including the salaries, allowances and pensions payable to the Chief Election Commissioner, Election Commissioners, Regional Election Commissioners and the officers and other employees of the Commission shall be charged on the Consolidated Fund of India.

Expenses of the Election Commission.

(2) The Election Commission shall maintain proper accounts and other relevant records and prepare an Annual Statement of Accounts in such form as may be prescribed and shall submit it to the President, who shall cause it to be laid before each House of Parliament within such time frame as may be prescribed.

Protection of  
action taken in  
good faith.

**15.** No suit, prosecution or other legal proceedings shall lie against the Chief Election Commissioner, Election Commissioner, Regional Election Commissioner or any officer or employee of the Election Commission in respect of anything which is in good faith or intended to be done under this Act or any rule or order made thereunder.

Members and  
staff of  
Election  
Commission  
to be public  
servants.

**16.** The Chief Election Commissioner, Election Commissioner, Regional Election Commissioner, officers and other employees of the Election Commission shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Bar of  
jurisdiction.

**17.** With effect from the date of this Act coming into force, no civil court shall have jurisdiction to entertain any suit, petition or appeal in respect of any order or decision of the Election Commission.

Act to have  
overriding  
effect.

**18.** The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force other than this Act or in any instrument having effect by virtue of any such law other than this Act.

Repeal and  
savings.

**19.** (1) The Election Commission (Conditions of Service of Election Commissioners and Transaction of Business) Act, 1991 is hereby repealed.

11 of 1991.

(2) Notwithstanding such repeal, anything done or any action taken under the said Act shall be deemed to have been done or taken under the corresponding provisions of this Act.

Power to  
make rules.

**20.** (1) The Election Commission may, in consultation with the Central Government, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

The words 'democratic republic' are the cornerstones of the Constitution of India. A democracy requires that there should be periodic, free and fair elections, so that people are in a position to elect representatives of their choice, as an effective instrument of ascertaining popular will. The concept of a 'republic' envisages a State in which the people are supreme, there is no privileged class and all public offices are open to every citizen without discrimination.

2. Free and fair elections are the most important facets of democracy. They are meant to ascertain true popular will and are not mere rituals to generate an illusion of choice. Article 324 of the Constitution entrusts the power to conduct elections, to an independent body, viz., the Election Commission of India (ECI). Dr. B.R. Ambedkar, in one of his debates, articulated that the election machinery be outside the control of the Executive Government. The Constituent Assembly, from the very beginning, was keen to entrust the job of conducting elections to an independent body and therefore, expected a Parliamentary Law under clause (2) of article 324 relating to appointments of the Chief Election Commissioner (CEC) and the other Election Commissioners (ECs). Thus, the Constitution-makers wanted to keep the posts of the Chief Election Commissioner and the Election Commissioners outside the sole control of the Executive Government. However, the Hon'ble President of India continues to appoint the CEC and the ECs solely on the basis of aid and advice of the Council of Ministers, thus defeating the objective envisaged by the Constitution makers.

3. Institutions shall remain strong only so long as the public have faith in them. Considering the sensitive nature of the Election Commission's task, if the public perceive the institution as corrupt, partisan or biased, it loses its vitality. Therefore, it is imperative that the ECI is manned by officers who are impartial, independent, and possess impeccable integrity. In order to avoid appointing career bureaucrats, and to facilitate appointment of independent members of civil society as heads of the ECI so as to protect the institutional integrity of the ECI, the mode of appointment qualifications and disqualifications, term of office and other conditions of service of the CEC and ECs are set out in the Bill.

4. There is also a dire need to appoint Regional Election Commissioners who are conversant with the affairs of the States. India is the 7th largest country in the world in terms of area and the largest democracy in the world. Our country is the most linguistically diverse country in the world, having a total of 456 languages. For such a large democracy, it is a herculean task for the three Election Commissioners sitting in Delhi to handle elections across the length and breadth of the country and decide on all the election related issues that crop up from time to time. In order to make the functioning of the ECI more inclusive and broad based, it is high time that Regional Election Commissioners are appointed so that they bring more perspective into the functioning of the ECI. Appointment of Regional Election Commissioners would ensure that the ECI takes into consideration the needs of the population at the grass root level.

5. The appointments of the Chief Election Commissioner and Election Commissioners have to be insulated from political whims and fancies and therefore, must be on the basis of the recommendations of a high powered Selection Committee similar to the Selection Committee constituted for the appointment of the CBI Director, Lokpal and Lokayuktas. Only by ensuring that the appointment of the CEC and the ECs is transparent, objective and non-partisan, can we expect the ECI to be a neutral body.

6. Under clause (2) of article 324, the drafters of the Constitution bestowed upon Parliament, the power to enact a law pertaining to the appointment of the Chief Election Commissioner and other Election Commissioners. However, no such law has been enacted.

7. Another aspect is that the ECI cannot be truly impartial unless it has a permanent Secretariat, staff and its expenditure is charged from the Consolidated Fund of India. Only this will truly liberate the ECI and ensure its independence. Since, there has to be some

mechanism to check its expenditure and excesses, the ECI can be made responsible to both Houses of Parliament in so far as its expenditure is concerned.

8. Recently, in a judgment, the Supreme Court of India has held that till such time, Parliament makes a law in this regard, appointments to the posts of Chief Election Commissioner and the Election Commissioners shall be done by the President of India on the basis of the advice tendered by a Committee consisting of the Prime Minister of India, the Leader of the Opposition in the Lok Sabha and, in case, there is no such Leader, the Leader of the party having the largest numerical strength amongst the parties in opposition in the Lok Sabha and the Chief Justice of India. The Court has also requested the Union Government to consider bringing in laws to ensure that the ECI gets a permanent Secretariat and staff and is not dependent on the Union Government for its funding.

9. That apart, one of the fundamental flaws of the ECI is that it does not have a legal member, though it adjudicates disputes having civil consequences. It is well settled that any Tribunal or Commission that performs adjudicatory functions must have a legal member. In the absence of such a legal mind, often, binding judgments of the Constitutional Courts are ignored by the Commission in passing orders leading to further litigation.

10. It is, therefore, proposed to introduce a Bill to provide for a comprehensive law for establishing the procedure for appointing the Chief Election Commissioner, Election Commissioners and the Regional Election Commissioners in four Regional Zones, namely, Northern, Southern, Eastern and Western.

The Bill seeks to achieve these objectives.

P. WILSON

## FINANCIAL MEMORANDUM

Sub-clause (2) of Clause 5 of the Bill provides for the constitution of a Search Committee for calling applications and drawing up a panel of persons eligible for appointment as Chief Election Commissioner, Election Commissioners and Regional Election Commissioners and sub-clause (7) of Clause 5 of the Bill provides for the fees and allowances of members of the Search Committee. Clause 9 of the Bill provides for the salaries and allowances of the Chief Election Commissioner, Election Commissioners and Regional Election Commissioners and Clause 11 for their pensions. Clause 13 of the Bill provides for the establishment of a permanent Secretariat for the Election Commission with such number and category of officers and other employees to assist the Commission in the discharge of its functions and Clause 12 of the Bill provides for other conditions of service of the Chief Election Commissioner, Election Commissioners, Regional Election Commissioners, officers and other employees of the Commission. Clause 14 of the Bill provides that the all expenses of the Election Commission of India shall be charged on the Consolidated Fund of India.

Therefore, the Bill if enacted, is likely to involve an expenditure, both of recurring and non-recurring nature, of about One thousand Crore rupees annually from the Consolidated Fund of India.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 20 of the Bill empowers the Election Commission of India, in consultation with the Central Government, to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative powers is of normal character.



## BILL NO. CX OF 2022

*A Bill further to amend the Constitution of India.*

BE it enacted by the Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2022.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment  
of article 102.

**2.** In article 102 of the Constitution, after clause (2), the following proviso shall be inserted, namely:—

"Provided that a member of either House of Parliament belonging to any political party who is disqualified for being a member of that House under paragraph 2 of the Tenth Schedule shall continue to be disqualified for a further period of six years from the date of his disqualification."

Amendment  
of article 191.

**3.** In article 191 of the Constitution, after clause (2), the following proviso shall be inserted, namely:—

"Provided that a member of Legislative Assembly of a State or either House of the Legislature of a State having Legislative Council belonging to any political party who is disqualified for being a member of that House under paragraph 2 of the Tenth Schedule shall continue to be disqualified for a further period of six years from the date of his disqualification."

Amendment  
of the Tenth  
Schedule.

**4.** In the Tenth Schedule to the Constitution—

(i) in paragraph 1, for clause (a), the following clauses shall be substituted, namely—

'(a) "Adjudicating Committee" means a committee appointed to pass any order or decision under this Act.

(aa) "House" means either Houses of Parliament or the Legislative Assembly or, as the case may be, either House of the Legislature of a State;'

(ii) for paragraph 4, the following paragraph, shall be substituted, namely:—

"4. (1) The Members of a House, comprising not less than one-third of the total membership of a political party of that House, who—

(a) give up the membership of their original political party and merge with another political party, or

(b) form a new political party and function independently, shall be liable to disqualification under paragraph 2 of the Tenth Schedule and their seats in the House shall automatically be vacated, as per the provisions of sub-clause (a) of clause (3) of article 101 of the Constitution and such members shall have to seek fresh elections to the House, if they so desire.

(2) In the event of defection by members of the House of the People or of the Legislative Assembly of a State, comprising not less than one-third of the total membership of a political party in that House, a special session shall be convened for the purpose of discussion and voting on a motion expressing confidence or want of confidence in the Council of Ministers within a period of forty-eight hours, from the date of vacation of seat(s) by such Member(s) on defection.

(iii) for paragraph 6, the following paragraph shall be substituted, namely:—

(1) If any question arises as to whether a member of a House has become subject to disqualification under this Schedule, the question shall be referred for the decision of a three-member Adjudicating Committee, constituted in such manner as the President may determine, comprising the following:

(a) a retired Judge of the Supreme Court as Chairperson;

(b) a retired Judge of the High Court as Member;

(c) a retired Chief Election Commissioner as Member.

(2) No person who has held office as a judge of the Supreme Court or as the Chief Election Commissioner shall be appointed as a member of the adjudicating committee before the expiry of six years from the date he ceases to hold such office.

Disqualification  
and vacation  
of seat in  
cases of  
merger etc.

Decisions on  
question as to  
disqualification  
on ground of  
defection.

(3) The Conditions of service and tenure of the members of the committee shall be such as the President may determine:

Provided that the conditions of service and tenure of the members shall not be varied to their disadvantage either after their appointment or during the course of their tenure in such capacity.

(4) The decision of the Adjudicating Committee shall be final.

## STATEMENT OF OBJECTS AND REASONS

India's political system has undergone tremendous changes since independence. While the formation of coalition governments since 1960s has on the one hand helped ensure wider representation and diversity of voices in the governance system, it has also parallelly increased the instances of political manoeuvring. Accordingly, India enacted anti-defection law in 1985. However, despite the legislation being in force, elected representatives have been using various loopholes in the laws to continually pursue defection.

Such a defection mostly arising out of the power tussle and political considerations often erodes the public trust in the fundamentals of a democracy. Paragraph (4) of the Tenth Schedule to the Constitution which validates mergers, where two-thirds of the members of a legislative party have consented to such merger, remains in effect as a tool of misuse by majority of the legislators.

The Tenth Schedule of the Constitution as it originally existed recognised the concept of 'split' if one-third members of any political party decided to form a new political party or join another political party. However, this provision was later modified by the Constitution amendment in 2003. While the anti-defection law aims at preventing horse-trading of the legislators, the extant provisions in Tenth Schedule fails to prevent such practices by way of misuse of loopholes therein. The defections are often instigated not by independent individual disagreement of the members, but rather by use of money and muscle power.

Additionally, putting the final authority to decide the cases of disqualification in cases of defection on the Speaker of the House may also compromise the decision. Hence, to provide for greater independence, fairness, and impartiality, there is a need to refer such a decision to a separate Adjudicating Authority.

Therefore, this Bill provides for immediate disqualification of a candidate who defects from a political party and vacation of his seat necessitating him to seek fresh mandate. Such a clause shall ensure that the legislators have a moral responsibility to the political party and to the people who trust him at large.

Hence, this Bill.

PRIYANKA CHATURVEDI

## FINANCIAL MEMORANDUM

Sub-clause (iii) of clause 4 of the Bill *inter-alia* provides for constitution of a three-member Adjudicating Committee comprising a Retired Judge of the Supreme Court as Chairperson; a retired Judge of the High Court as Member; and a retired Chief Election Commissioner as Member. Therefore, if enacted, this Bill would involve expenditure from the Consolidated Fund of India. However, it is difficult to estimate the actual financial expenditure likely to be incurred at this stage.

## BILL NO. IX OF 2023

*A Bill to provide for a framework to regulate, control and define powers of the police agencies and central investigative agencies to use facial recognition technologies for the purposes of identification, investigation and inquiries of criminal offences and for matters connected therewith and incidental thereto.*

BE it enacted by the Parliament in the Seventy-fourth Year of the Republic of India as follows:—

Short title and  
commencement. **1.** (1) This Act may be called the Facial Recognition Technology (Regulation of Police Powers) Act, 2023.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "facial recognition technology" means an algorithm based automated or semi-automated technology which is employed to identify, verify, map and match individual's facial features, including 1:1 identification and 1: N verification system, to infer emotions, associations or activities of the individual;

(b) "face surveillance" means the use of facial recognition technology to track, analyse, observe movements, behaviour, data, or actions of an individual or groups of individuals;

(c) "Magistrate" means,—

(i) in relation to a metropolitan area, the Metropolitan Magistrate; or

(ii) in relation to any other area, the Judicial Magistrate of the first class.

(d) "other remote biometric recognition" means any form of automated or semi-automated process used to assist in identifying an individual, trace an individual or otherwise surveil information about an individual, which may include voice recognition technology, logs to infer characteristics of the individual but does not include finger prints and palm prints;

(e) "police officer" means an officer in-charge of a police-station or a police officer making an investigation under Chapter XII of the Code of Criminal Procedure, 1973, or any other police officer not below the rank of Sub-Inspector; and

(f) "prescribed" means prescribed by rules made under this Act.

3. (1) Unless otherwise stated under this Act, no police officer, police agency or central investigation agency shall be allowed to acquire, possess, access or use facial recognition technology or other remote biometric recognition to identify, trace or otherwise surveil the origin of any individual for any criminal investigation, identification or inquiry:

Use of Facial Recognition Technology in certain offences.

Provided that nothing contained in this section shall apply to offences committed which affect or endanger the national security of India, or such offences which threaten the unity and integrity of India.

(2) Subject to provision of sub-section (1), a police officer shall obtain the order of a Magistrate for utilising facial recognition technology or other remote biometric recognition in the identification, investigation or inquiry of the offence, in such manner as may be prescribed.

(3) The use of facial recognition technology or other remote biometric recognition shall not be considered within the ambit of 'measurements' as provided under the Criminal Procedure (Identification) Act, 2022.

11 of 2022.

(4) The use of facial recognition technology shall not be employed to identify persons only on the basis of race, caste, religion, gender, sexual orientation, political ideology, place of birth, face surveillance or any of them.

4. (1) The National Crime Records Bureau shall, in the interest of prevention, detection, investigation and prosecution of any offence under any law for the time being in force,—

Collection, storing, preservation of face surveillance and/or other remote biometric recognition records.

(a) collect the record of face surveillance and/or other remote biometric recognition record from State Government or Union Territory Administration or any other law enforcement agencies;

(b) store, preserve and destroy the record of face surveillance and/or other remote biometric recognition records at national level;

(c) process such record with relevant crime and criminal records; and

(d) share and disseminate such records with any law enforcement agency, in such manner as may be prescribed.

(2) The record of face surveillance and/or other remote biometric recognition records shall be retained in digital or electronic form for a period of seventy-five years from the date of collection of such measurement:

Provided that where any person, who has not been previously convicted of an offence punishable under any law with imprisonment for any term, has had his face surveillance and/or other remote biometric recognition records taken according to the provisions of this Act, is released without trial or discharged or acquitted by the court, after exhausting all legal remedies, all records so taken shall, unless the Court or Magistrate, for reasons to be recorded in writing otherwise directs, be destroyed from records.

(3) The State Government and Union Territory Administration may notify an appropriate agency to collect, preserve and share the face surveillance and/or other remote biometric recognition records in their respective jurisdictions.

Power of Magistrate to allow the investigating agencies to take face surveillance and/or other remote biometric recognition records.

5. (1) Where the Magistrate is satisfied that, for the purpose of any investigation or proceeding under the Code of Criminal Procedure, 1973 or any other law for the time being in force, it is expedient to direct any person to give face surveillance and/or other remote biometric recognition records under this Act, the Magistrate may make an order to that effect and in that case, the person to whom the order relates shall allow the face surveillance and/or other remote biometric recognition records to be taken in conformity with such directions.

2 of 1974.

(2) No person shall be denied a reasonable opportunity of being heard before allowing the deployment of facial recognition technology or other remote biometric recognition techniques as may be required, in such manner as may be prescribed.

Bar of Proceedings or suit.

6. No suit or any other proceeding shall lie against any person for anything done, or intended to be done in good faith under this Act or any rule made thereunder.

Power to make rules.

7. (1) The Central Government or the State Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act;

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule;

(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

Act to have overriding effect.

8. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Repeal and savings.

9. (1) The Criminal Procedure (Identification) Act, 2022 is hereby repealed to the extent of powers accorded in this Act to use of facial recognition technology or other remote biometric recognition techniques;

11 of 2022.

(2) Any regulation, or any proceedings taken, any rule made or any direction given or any proceedings taken or any penalty or fine imposed under the repealed Identification of Prisoners Act, 1920 shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to be void;

33 of 1920.



10 of 1897. (3) The mention of particular matters in sub-section (2) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal.

## STATEMENT OF OBJECTS AND REASONS

The advancement in the field of technology has created ripples in other domains of social life, such as governance, communication, service delivery and also law enforcement. Technology can be a friendly servant but a dangerous master. The development of Facial Recognition Technology (FRT) has a significant potential of improving the efficiency of law enforcement agencies.

2. However, unregulated utilisation of such technology by the law enforcement agencies in the background of absence of a strong data protection law in the country can have several unintended consequences emanating from the possible misuse. This may primarily include misidentification, inaccuracy of the technology, machine bias etc.

3. In the case of *Sadhan Haldar vs. NCT of Delhi*, the Hon'ble High Court of Delhi allowed the use of technology for identification of missing children. However, there have been several reported instances where Central as well as State level agencies have used technologies to track persons involved in protests against the government. In this light, the legality of use of the technology requires introspection.

4. Given the immense potential of the technology in several aspects of law enforcement, such as identification of missing persons, prevention of crimes, boosting security systems, faster processing of data etc., there is a need to strike a balance in a way that the technologies such as FRT and other remote biometric recognition techniques would be used by law enforcement agencies within the permissible bounds of constitutional right to privacy and right against self-incrimination.

5. Thus, there is a need to demarcate the offences for which such a technology may be deployed in the course of investigation, identification and inquiries.

The Bill seeks to achieve the above-mentioned objective.

PRIYANKA CHATURVEDI

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government and the State Governments to make rules for carrying out the purposes of the Bill. Since the rules will relate to matters of detail only, the delegation of the legislative power is of a normal character.

## BILL NO. XCVI OF 2022

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

Short title and  
commencement.

**1.** (1) This Act may be called the Constitution (Amendment) Act, 2022.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of  
new article  
44A.

**2.** In the Constitution of India, after article 44, the following new article shall be inserted, namely:—

Control of  
population.

"44A. The State shall take all necessary steps to control population growth by promoting small family norms by all reasonable incentives and education through print and electronic media and other means as may be deemed appropriate to achieve a stable population."

Amendment  
of article 51A.

**3.** In article 51A, after clause (k) the following shall be inserted, namely:—

"(l) to encourage, incentivise and adopt small family norms and set targets towards achieving a stable population."

## STATEMENT OF OBJECTS AND REASONS

India is the second most populous country after China with the highest birth rate in the world. According to a report, India is slated to become the world's most populous country with a population of 1.6 billion by 2030.

India has had a State-sponsored family planning programme since 1951. Of late, the programme has shown some results. The Total Fertility Rate (TFR) has fallen from around 6 at the time of independence, to around 2.3. The results of the programme have, however, been skewed. It is very unfortunate that despite the availability of various birth control means and family planning programmes, the population is continuing to rise menacingly. This has caused over-crowding due to which law and order situation is also deteriorating. Unemployment is rising rapidly causing frustration amongst unemployed, particularly amongst the youth who are being lured by anti-national and anti-social elements. There is unparallel transformation of human values, social institutions and economic structures. Agricultural land holdings are becoming smaller and smaller and farming is becoming uneconomical. As a result, many farmers are committing suicides. The housing needs are far beyond the available finances and the shortage is appalling. Educational and health care facilities are far from satisfactory. If the population is not stabilized, achieving a quality life would be a distant proposition.

Further, the benefits of collective efforts of national building have been squandered by the rise in population or evident from economic data. India's per capita GDP in 1998 was 413 dollars and it has grown to about 2016 dollars in the year 2018. However, during this period, our population is estimated to have grown from 1 billion to 1.4 billion. Had there been a stable population during this period, the per capita GDP would have been higher by another 40 per cent. Certainly, a rising population limits the ability of the State to provide better quality of life to its citizens, since a large chunk of national income is spent on maintaining the existing facilities.

It is, therefore, imperative that a focused approach must be taken to check the increasing population. The Bill seeks to insert a new article in Part IV of the Constitution enjoining upon the State to take all steps to control population growth by promoting small family norms and achieve a stable population. The Bill also makes it a fundamental duty for citizens to adopt small family norms and work towards achieving a stable population in the country.

The Bill seeks to achieve the above objectives.

Hence, this Bill.

DR. ANIL SUKHDEORAO BONDE

## BILL NO. XCVIII OF 2022

*A Bill to provide for regulation of marriage bureaus for prevention of malpractices and misuse of marriage registration facility and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Seventy-third year of the Republic of India as follows:—

Short title and  
Commencement.

1. (1) This Act may be called the Marriage Bureau (Regulation) Act, 2022.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) “identity proofs” means any of the following,—

(i) valid passport;

(ii) voter Identity Document;

(iii) Aadhaar Card;

(iv) any photo identity card issued by the State Government or the Central Government or Public Sector Undertakings or banks;

(c) “marriage” includes a re-marriage duly instituted as per the existing laws;

(d) “marriage bureau” means a bureau or institution consisting of a person or group of persons, which carries on the activity of helping the unmarried persons including divorcees, widows and widowers, desirous of getting married, registered with the bureau, in finding a suitable match for them by arranging to bring them together;

(e) ‘parties’ means the husband and wife whose marriage has been solemnized;

(f) ‘prescribed’ means prescribed by rules made under this Act;

(g) ‘Registrar’ means a Registrar of Marriage Bureaus and Marriages appointed under this Act;

(h) ‘Registrar-General’ means the Registrar-General of Births, Deaths and Marriages appointed by the appropriate Government under the Births, Deaths and Marriages Registration Act, 1886.

6 of 1886.

**3.** (1) The appropriate Government may, by notification in the *official Gazette*, appoint as many persons, as it may consider necessary to be the Registrar of Marriage Bureaus and Marriages for such area or areas as may be specified in such notification;

Appointment of Registrar of Marriage Bureaus and Marriages.

(2) The Registrar shall exercise such powers and duties as may be prescribed and shall work under the general superintendence and control of the Registrar-General.

**4.** From the date of coming into force of this Act, every marriage bureau and every marriage in the country shall be registered with the Registrar of Marriage Bureaus and Marriages.

Marriage bureaus and marriages to be registered.

**5.** (1) Any person or group of persons desirous of conducting or running a marriage bureau shall apply for registration of such marriage bureau to the Registrar, in such manner with such fees and documents as may be prescribed.

Registration of marriage bureaus and marriages.

(2) The Registrar shall, upon reviewing an application received under sub-section (1), after scrutiny thereof, register such marriage bureau and grant a certificate of registration to such bureau, in the prescribed form.

(3) The registration certificate so granted shall be displayed prominently by such bureau in its registered office premises.

(4) Every such marriage bureau shall renew its registration after every two years from the date of grant of such certificate on payment of the prescribed renewal fee.

(5) No marriage bureau shall carry on or conduct its activities as the marriage bureau, except at its registered office as specified in the registration certificate granted under sub-section (2).

(6) Every marriage bureau shall conduct its activities strictly as per the terms and conditions of the registration granted under sub-section (2).

(7) Contravention of any of the provisions of the Act by a marriage bureau shall make the registration of such bureau liable for cancellation:

Provided that registration of a marriage bureau shall not be cancelled without giving a reasonable opportunity of being heard, to the concerned bureau.

(8) Any marriage bureau aggrieved by the order of the Registrar refusing to register or renew the registration of the bureau or regarding cancellation of the registration may, appeal against such order to the Registrar-General in such manner as may be prescribed.

Duties of marriage bureau.

**6.** (1) It shall be mandatory for every marriage bureau to obtain a copy of a valid identity proof from every desirous to be registered with the bureau and to maintain a record of the parties in such form and manner as may be prescribed.

(2) Privacy of information shared by the parties with the marriage bureau shall be maintained by the marriage bureau and shall only be furnished to law enforcing, investigating or Government agencies upon a written request received therefrom.

(3) No marriage bureau shall convert or attempt to convert, either directly or otherwise, any other person from one religion to another by use or practice of misrepresentation or any fraudulent means, or by promise of marriage, nor shall any person abet to or conspire for such conversion.

Registration of particulars of marriage.

**7.** For the purpose of facilitating the proof of marriages, the Registrar shall provide that the parties to any such marriages shall have the particulars of their marriages entered in such manner and subject to such condition as may be prescribed.

Consultancy fee.

**8.** Consultancy fee payable to the marriage bureau by the parties shall be a reasonable amount which shall be fixed by the Registrar-General in the manner as may be prescribed.

Penalty.

**9.** Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act, shall be punished with a fine which may extend to ten thousand rupees for the first violation and up to twenty five thousand rupees for second and subsequent violations.

Overriding effect of the Act.

**10.** The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law, for the time being in force, relating to marriage bureaus.

Act not to be in derogation of any other law.

**11.** The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make rules.

**12.** (1) The Central Government or the State Government may by notification in the Official Gazette make rules for carrying out the purpose of this Act.

(2) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.



## STATEMENT OF OBJECTS AND REASONS

Marriage bureaus are popular match making services in India where parties interested in marriage register their names with them and the bureau suggests to them suitable matches from their database. Most marriage bureaus are community based where one can easily find a partner as per their liking, mother tongue, country, religion, occupation and more. The matches are suggested by the bureaus directly to the candidates or the parents of the candidates when they visit the bureau or through correspondence, emails and phone calls. Some marriage bureaus arrange meetings between suitable matches as well. Running a marriage bureau may also be a good source of income as the expenses are low while the income is high. Many marriage bureaus in cities like Mumbai, Delhi, Pune and Bangalore charge between one thousand to five thousand rupees for each registration.

In some Indian States, registration of marriage bureaus is being done as per established laws. But in most States, services by bureaus are being misused for making false promises or false profile of marriage. Besides some of the marriage bureaus do not keep the personal information of the parties secured and confidential. Further, marriage bureaus do not have stringent 'Know Your Customer'(KYC) procedures in place and hence, readily accept documents or facts provided by fake profiles which result in commission of fraud. Therefore, it is imperative to provide for regulation of marriage bureaus in India in order to prevent malpractices and misuse of marriage registration facility as well as to maintain a record of parties with sufficient proof alongwith other details.

Thus, there is an urgent need to provide registration and regulation of marriage bureaus.

Hence, this Bill.

DR. ANIL SUKHDEORAO BONDE

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FINANCIAL MEMORANDUM

Clause 3 of the Bill *inter-alia* provides for appointment of Registrar of Marriage Bureaus and Marriages. Therefore, if enacted, this Bill would involve expenditure from the Consolidated Fund of India. However, it is difficult to estimate the actual financial expenditure likely to be incurred at this stage.

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MEMORANDUM OF DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government and the State Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of details only, the delegation of legislative power is of normal character.

## BILL NO. XXXVI OF 2023

*A Bill to prohibit interfaith marriages by unlawful conversion and for matters connected therewith or incidental thereto.*

BE it enacted by the Parliament in the Seventy-fourth Year of the Republic of India as follows:—

Short title and  
commencement.

**1.** (1) This Act may be called the Interfaith Marriages by Unlawful Conversion (Prohibition) Act, 2023.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette appoint.

Definitions.

**2.** In this Act, unless the context otherwise requires:—

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) "Family Courts" means the family courts as established under the Family Courts Act, 1984;

(c) "interfaith marriage" means marriage between persons professing different religions;

66 of 1984.

(d) "offence" means the offence of performing an interfaith marriage for the sole purpose of unlawful conversion, as per section 5 of this Act;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "religion" means any organized system of worship pattern, faith, belief, worship or life-style as prevailing in India or any part of it and defined under any law or custom for the time being in force;

(g) "spouse" means either the husband or wife in the interfaith marriage; and

(h) "unlawful conversion" means convert or attempt to convert any person from one's own religion to another by use or practice of misrepresentation, force, undue influence, coercion, allurement or by any fraudulent means and is not in accordance with the law of the land.

3. (1) Notwithstanding anything contained in any other law for the time being in force or in any custom or ritual of any community, religion, tribe or caste, interfaith marriage, which is done for the sole purpose of unlawful conversion of one spouse, either before or after the marriage, is hereby prohibited.

Prohibition of interfaith marriages done for the sole purpose of unlawful conversion.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the appropriate Government shall issue necessary directions for carrying out the purposes of this Act, in such manner as may be prescribed.

4. Any interfaith marriage, which is done for the sole purpose of unlawful conversion of one spouse, either before or after the marriage, shall be declared void by the Family Court having jurisdiction in the area where such interfaith marriage has taken place, or where Family Court is not established, the Court having jurisdiction to try such case on a petition presented by either party thereto against the other party of the marriage, in such manner as may be prescribed.

Interfaith marriage done for the sole purpose of unlawful conversion or *vice-versa* to be declared void.

5. Whoever performs or takes part in an interfaith marriage which is done for the sole purpose of causing unlawful conversion of one spouse, either before or after the marriage, shall be guilty of having committed an offence of performing an interfaith marriage for the sole purpose of unlawful conversion.

Offence of performing an interfaith marriage for the sole purpose of unlawful conversion.

6. Notwithstanding anything contained in any other law for the time being in force, whoever commits an offence under this Act, shall on conviction by a Court of Law be punishable with rigorous imprisonment, which shall not be less than five years but which may extend to ten years, and shall also be liable to fine which may extend to one lakh rupees.

Penalty.

7. When an offence is committed under this Act, each of the following persons shall be deemed to have taken part in committing the offence and to be guilty of the offence,—

Parties to the offence.

(a) every person who actually does the act which constitutes the offence;

(b) every person who aids or abets another person in committing the offence;

(c) every person who does or omits to do any act for the purpose of enabling or aiding another person to commit the offence; and

(d) any person who counsels, convinces or procures any other person to commit the offence.

5 of 1973.

8. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence committed under this Act shall be cognizable and non-bailable and triable by the Court of Sessions.

Offences to be cognizable and non-bailable.

Power to make  
rules.

**9.** (1) The Central Government may by notification in the Official Gazette make rules for carrying out the purposes of this Act.

(2) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

Marriage is a part of individual life as well a social issue. Interfaith marriage signifies a marital union wherein the partners belong to different faiths and religions. These marriages usually face difficulties in respect of social involvement, social behaviour, adaptation and acceptance by the families of both spouses as well as the society. Sometimes even the children of interfaith marriages face challenges and exclusion in society. Some religions prohibit interfaith marriages, some are silent on the issue, while others allow it with requirements of ceremony and customs.

Interfaith marriages have recently become a topic of controversy due to the disapproval of relationships/alliances between Hindus and Muslims, where in some cases non-Muslims are required to convert to solemnise the marriage. These incidents have attracted condemnation, harassment and legal action by the involved communities. Such interfaith marriages are seen as an inherent indication of a forced conversion of one of the spouses, mostly women. As per Muslim personal law, in order to get married to a non-Muslim, conversion of religion is the only way. Interfaith marriages in India are registered under the Special Marriage Act, 1954.

In recent years, there have been instances of conversion in the name of interfaith marriages and these instances have caused disturbance and public unrest. The institution of marriage should not be exploited for the sake of unlawful conversion.

Thus, there is an urgent need to contemplate a law in order to prohibit interfaith marriages done for the sole purpose of unlawful conversion. There should also be deterrent punishment for the persons who are responsible for such acts.

Hence, this Bill.

ANIL SUKHDEORAO BONDE

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of details only, the delegation of legislative power is of normal character.



## BILL NO. XCIII OF 2022

*A Bill further to amend the Advocates Act, 1961.*

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

**1.** (1) This Act may be called the Advocates (Amendment) Act, 2022.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title and  
commencement.

25 of 1961.

**2.** In section 2 of the Advocates Act, 1961 (hereinafter referred to as the principal Act), after clause (i), the following clause shall be inserted, namely:—

Amendment of  
section 2.

"(ia) "misconduct" means any act of a legal practitioner that is found to be in breach of or wanting in observance of the standard of professional conduct or etiquette prescribed by the rules framed under clause (c) of sub-section (1) of section 49 of this Act, or any conduct that is a disqualification for enrolment under section 24A of this Act."

Amendment  
of section 35.

**3.** In section 35 of the principal Act, in sub-section (3), after clause (d), the following clauses shall be inserted, namely:—

"(e) impose such fine as it may deem fit, proportionate to the gravity of the misconduct proved against the advocate, subject to the maximum limit of three lakh rupees; and

(f) award a fair and reasonable compensation of such amount as it may deem fit, subject to the maximum limit of five lakh rupees, payable to the person aggrieved by the misconduct of the concerned advocate."

Amendment  
of section 43.

**4.** In section 43 of the principal Act, after clause (b), the following proviso shall be inserted, namely:—

"Provided that the disciplinary committee may order special or exemplary costs, subject to a maximum of two lakh rupees, to be payable either by the complainant, if the complaint is found to be vexatious or frivolous, or by the respondent advocate, if he is found to have been uncooperative in the disciplinary proceedings under this Act."

## STATEMENT OF OBJECTS AND REASONS

The legal profession is considered a noble profession as it facilitates the establishment of a legal system that dispenses fair and impartial justice and protects the rule of law. The fundamental pre-requisite for preserving the nobility of this profession is to ensure adherence to a well-defined set of professional norms that seek to regulate the conduct of advocates and provide adequate punishment in cases of proven misconduct.

Although both the Advocates Act, 1961 and the Bar Council of India Rules lay down the standards of professional conduct, they are silent as to what the term 'misconduct' means in the context of the legal profession. This lack of specificity has resulted in the arbitrary usage of section 35 of the Act, which seeks to penalise the misconduct of advocates. Furthermore, the forms of punishment prescribed under section 35 are very limited. They do not allow for imposition of fine on the advocate on whose part the misconduct is proven, or provision of compensation to the party aggrieved by such misconduct. Lastly, the Act fails to provide punishment in case the complaint of misconduct is found to be vexatious or frivolous, or where the advocate has been uncooperative in the disciplinary proceedings.

To remedy this lacunae in the law governing the legal profession, this Bill inserts a comprehensive definition for 'misconduct', expands the scope of penalties and costs provided under sections 35 and 43. By doing so, this Bill lends much-needed clarity and efficacy to the professional norms that are aimed at deterring misconduct of advocates.

This Bill seeks to achieve the above objectives.

DR. SASMIT PATRA.

## BILL NO. XCI OF 2022

*A Bill further to amend the Indian Penal Code, 1860.*

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

Short title and  
commencement.

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 2022.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Substitution of  
new section for  
section 124A.

2. For section 124A of the Indian Penal Code, 1860 (hereinafter referred to as the Code), 45 of 1860. the following section shall be substituted, namely:—

Sedition.

"124A. Whoever, by words, either spoken or written, or by signs, or by visible representation or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards the Government established by law

in India, shall be punished with imprisonment for life, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine:

Provided that the provisions of this section shall apply only when the words, signs, visible representation or any other action directly results in incitement of violence and commission of an offence punishable with imprisonment for life under this Code.

*Explanation.*—Comments or signs or visible representation or any other act expressing disapprobation of the administrative measures or other action of the Government, do not constitute an offence under this section."

3. In the Code, for section 309, the following section shall be substituted, namely:—

Substitution of new section for section 309.

"309. Whoever holds out a threat of suicide to a public authority, with intent to cause that authority to do any act which it is not legally bound to do, or to omit to do any act which it is legally entitled to do, as the means of avoiding the execution of such threat, and does any act towards the execution of such threat, shall be punished with imprisonment of either description for a term which may extend to three years or with fine, or with both."

Threat of suicide with intent to coerce a public authority.

4. In the Code, in section 375, for Exception 2, the following Exception shall be substituted, namely:—

Substitution of new exception for exception 2 of section 375.

"(2) Marriage or other relationship shall not constitute a defence to a charge of rape under this section."

## STATEMENT OF OBJECTS AND REASONS

Democracy is not another name of majoritarianism, on the contrary it is a system to include every voice, where thought of every person is counted, irrespective of the number of the people backing that idea. In a democracy, it is natural that there will be different and conflicting interpretations of a given account of an event. Not only viewpoints which constitute the majority are to be considered, but at the same time, dissenting and critical opinions should also be acknowledged. Free speech is protected because it is necessary to achieve some greater, often ultimate, social good. In a democratic set-up, there has to be an active and intelligent participation of the people in all spheres and affairs of their community as well as the State. It is their right to be kept informed about current political, social, economic and cultural life as well as the burning topics and important issues of the day in order to enable them to consider and form broad opinion about the same and the way in which they are being managed, tackled and administered by the Government and its functionaries. To achieve this objective the people need a clear and truthful account of events, so that they may form their own opinion and offer their own comments and viewpoints on such matters and issues and select their further course of action.

2. The Supreme Court has also narrowed the scope and applicability of section 124A, in its landmark judgment in *Kedar Nath Singh V/s State of Bihar* (1962) case, where it linked sedition to a test of tangible evidence of actual harm. There is an urgent need to amend section 124A of the Indian Penal Code in compliance with the judgment of the Supreme Court and to prevent the possibility of undue harassment of citizens who simply disagree with the Government.

3. Section 309 of Indian Penal Code criminalised an attempt to suicide by any person. However section 115 of the Mental Health Care Act, 2017 States that any person who attempts to commit suicide shall be presumed to have stress and therefore shall not be punished under IPC thus making provision of section 309 of IPC otiose. The Law Commission had twice, in 1971 and 2008, also recommended the repeal of section 309 of the IPC. In *Aruna Ramchandra Shanbaug v. Union of India*, (2011) 4 SCC 454, the Supreme Court emphasised that a person suffering from mental health illnesses needs help rather than punishment. However, it is imperative to punish suicide where it serves another purpose, *i.e.*, an attempt to suicide should be criminalised when it is used as an instrument to threaten with the object of coercing a public authority to pursue a course of action. To prevent suicide attempts being used as threats, to intimidate or coerce public authorities, the new provision be added to the code.

4. In India, marital rape exists *de facto* but is not recognised *de jure*, *i.e.* in law. While in other countries either the legislature has criminalized marital rape, or the judiciary has played an active role in recognizing it as an offence, in India, however, very little has been done to recognise this crime. Though marital rape is the most common and repugnant form of masochism in Indian society, it is hidden behind the iron curtain of marriage. In 1993, the United Nations High Commissioner for Human Rights published the declaration on the elimination of violence against women. This also establishes Marital Rape as a human right violation. However, India is one of the thirty-six countries that still have not criminalized marital rape. In a landmark judgment, the Supreme Court in *Independent Thought v. Union of India*, (2013) 382 SCC (2017) criminalized unwilling sexual contact with a wife between fifteen and eighteen years of age. This judgment has in turn led to an increase in other writs challenging the constitutionality of Exception 2 of section 375 of IPC as a whole. Although the Constitution guarantees equality to all under Article 14, Indian criminal law discriminates against female victims who have been raped by their own husbands. Exception 2 also violates Article 21's right to live a healthy and dignified life. It is well settled that the "right to life" envisaged in Article 21 is not merely a right to exist. The courts have repeatedly held that the "right to life" encompasses a right to live with human dignity. Yet, the very existence of

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Exception 2 of section 375 which fails to deter husbands from engaging in acts of forced sexual contact with their wives, adversely affects the physical and mental health of women and undermines their ability to live with dignity. It is time that we recognise the inhumane nature of this provision and consign it to the dustbin of history.

This Bill seeks to amend sections 124A, 309 and Exception 2 of section 375 of the Indian Penal Code, 1860 to achieve the aforesaid objectives.

DR. SASMIT PATRA.

## BILL NO. XCII OF 2022

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Seventy-third year of the Republic of India as follows:-

Short title and  
commencement.

**1.** (1) This Act may be called the Constitution (Amendment) Act, 2022.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Substitution of  
article 331.

**2.** For article 331 of the Constitution of India, the following article shall be substituted, namely:-

Representation  
of transgender  
community in  
the House of  
the People.

**"331.** Notwithstanding anything contained in article 81, the President shall, if he is of the opinion that the transgender community is not adequately represented in the House of the People, nominate not more than two members of that community to the House of the People."



3. For article 333 of the Constitution of India, the following article shall be substituted, namely:-

Substitution of article 333.

"**333.** Notwithstanding anything contained in article 170, the Governor of a State shall, if he is of the opinion that the transgender community needs representation in the Legislative Assembly of the State and is not adequately represented therein, nominate one member of that community to the Assembly."

Representation of transgender community in the Legislative Assemblies of States.

## STATEMENT OF OBJECTS AND REASONS

The transgenders face various forms of discrimination and trauma in our society. Since the colonial rule, the eunuchs have been labelled as cross-dressers, beggars and unnatural prostitutes. They are treated as outcasts right from birth. They have to beg on the streets for their living. People try to avoid them whenever they see them. We ourselves have rarely seen them employed in the public sectors. They also have to live at a separate place away from the society. Due to the social stigma and no protection to them, the Transgender Persons (Protection of Rights) Act, 2019 was recently passed by the Parliament. The Act gives recognition to the community as 'third gender' and provides protection against various forms of discrimination.

While the Act is a welcome move, and protects the community from discrimination, the transgender community has not got representation in Parliament. In the Census 2011, the transgender population was calculated to be six lakhs. Therefore, it becomes more significant for them to have a representative in the Parliament. In *National Legal Services Authority vs. Union of India and others* 1 (2014) 5 SCC 438, the Supreme Court had recognized the community to be from the economically and socially backward class. For the transgender persons, discrimination is not based on religion, it is more about what they are born with and considering their sexual practices as 'contamination' and 'filth'. The Scheduled Castes and Scheduled Tribes communities have reservation of seats, therefore there should be a similar provision for the transgender community also.

In such a scenario, if they get two seats reserved, this would help them in voicing their opinions easily because when the Transgender Person (Protection of Rights) Act, 2019 was passed, there was no one from their community who could voice their opinion or share their plight in the Parliament. Furthermore, since independence, there has not been a single transgender Member of Parliament or Member of Legislative Assembly of any State. Since the Parliament in the winter session of 2019 discontinued the reservation of two seats for the Anglo-Indians, those two seats can now be reserved for the transgenders. In the State of Odisha, Aishwarya Rutuparna Pradhan has become the first openly transgender civil servant. In order to facilitate more people to embrace their identity and to feel safe about accepting who they are, we can begin with reserving seats for them in the Parliament.

Thus, while there is a demand from the transgender community for reservation in the public sphere, the call for reservation of two seats for them in the Parliament should also be pursued. The Transgender Persons (Protection of Rights) Act, 2019 ensures protection for the transgenders in the society, and this Bill shall ensure their involvement in policies framed for their own welfare and the decisions made for the country.

Hence, this Bill.

DR. SASMIT PATRA.

## FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to amend article 331 of the Constitution, with a view to provide representation to transgender community in the House of the People. Article 106 of the Constitution provides that the members of either House of Parliament shall be entitled to receive such salaries and allowances as may from time to time be determined by Parliament by law.

Similarly, Clause 3 of the Bill seeks to amend article 333 of the Constitution, with a view to provide representation to transgender community in the Legislative Assemblies. Article 195 of the Constitution provides that the members of either Legislative Assembly or Legislative Council of a State shall be entitled to receive such salaries and allowances as may from time to time be determined by Legislature of the State.

The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. However, it is not possible to quantify the exact amount required from the Consolidated Fund of India at this stage.

No non-recurring expenditure is likely to be involved.

## BILL NO. XCIX OF 2022

*A Bill to amend the Micro, Small and Medium Enterprises Development Act, 2006.*

BE it enacted by the Parliament in the Seventy-third Year of the Republic of India as follows:—

Short title and  
commencement.

**1.** (1) This Act may be called the Micro, Small and Medium Enterprises Development (Amendment) Act, 2022.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of  
new sections  
10A and 10B.

**2.** In the Micro, Small and Medium Enterprises Development Act, 2006, after section 10, the following sections shall be inserted, namely:—

Lending rate  
and limit for  
lending of  
collateral free  
loans.

**"10A.** (1) Every scheduled commercial bank shall lend to the micro, small and medium enterprises at the rate of one per cent. plus the rate of fixed deposit of such banks.

(2) Every micro, small or medium enterprise shall be entitled to collateral free loan of up to rupees two crore from scheduled commercial banks.

**10B.** The Central Government shall, from time to time, notify suitable incentives to increase the inflow of equity capital in micro, small and medium enterprises.".

Incentives to  
increase the  
inflow of  
equity capital.

## STATEMENT OF OBJECTS AND REASONS

The Micro, Small and Medium Enterprises Development Act, 2006 aims to provide for facilitating the promotion and development and enhancing the competitiveness of micro, small and medium enterprises in the country particularly after the covid pandemic. The recommendations of various committees and task groups have brought about considerable positive changes in various areas of development of competitiveness of Micro, Small and Medium Enterprises (MSMEs).

However, the MSMEs, that contribute to nearly ten per cent. of the country's Gross Domestic Product (GDP), forty-five per cent. of the manufactured output, forty per cent. of our exports and that employ an estimated twelve million people, continue to face serious bottlenecks in its development especially after the ill effects of covid pandemic and lock downs. Lack of access to adequate and timely credit at a reasonable cost is the most critical problems faced by this sector. Hence, there is an urgent need to make it mandatory by law for scheduled commercial banks to provide affordable lending rates to MSMEs.

The Bill hence, aims to ensure lowest lending rates to MSMEs, fixed at one per cent. plus the rate of interest for fixed deposits of the scheduled commercial banks in the country. This would ensure more credit flow to the MSME sector, without hurting commercial banks, as they will continue to have freedom to fix lending rates to other sectors or units. The Bill also aims to make it mandatory for scheduled commercial banks to offer MSMEs, collateral free loans, up to rupees two crore. These two key changes in the Principal Act would revive MSMEs through increased credit flow.

Hence, this Bill.

DR. KANIMOZHI NVN SOMU.

## BILL NO. CIII OF 2022

*A Bill further to amend the Food Safety and Standards Act, 2006.*

BE it enacted by the Parliament in the Seventy-third Year of the Republic of India as follows:—

**1.** (1) This Act may be called the Food Safety and Standards (Amendment) Act, 2022. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2.** In section 3 of the Food Safety and Standards Act, 2006 (hereinafter referred to as the principal Act),— Amendment section 3.

(i) after clause (b), the following clause shall be inserted, namely:—

"(ba) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;"

(ii) after clause (c), the following clause shall be inserted, namely:—

"(ca) "child" means a boy or a girl who has not attained the age of eighteen years";

(iii) after clause (g), the following clause shall be inserted, namely:—

"(ga) "Council" means the Nutrition Council constituted under section 17A;"; and

(iv) after clause (h), the following clause shall be inserted, namely:—

"(ha) "educational institution" includes—

(i) a school established, owned or controlled by the appropriate Government or a local authority; or

(ii) a school receiving aid or grants from the appropriate Government or the local authority to meet whole or part of its expenses; or

(iii) a school belonging to specified category; or

(iv) an unaided school not receiving any kind of aid or grants to meet its expenditure; or

(v) an educational institution managed by a private entity, society or a trust, which imparts elementary education;".

Insertion of  
new Chapter  
IIA.

3. After Chapter II of the principal Act, the following Chapter and sections thereunder shall be inserted, namely:—

## "CHAPTER IIA

### REGULATION OF SALE AND ADVERTISING OF FOOD PRODUCTS CAUSING OBESITY AMONGST CHILDREN

Establishment  
of Nutrition  
Council.

**17A.** The Central Government shall, by notification in the Official Gazette, establish a council to be known as the Nutrition Council to regulate sale and advertising of food products which cause obesity amongst children.

Composition  
of the  
Nutrition  
Council.

**17B.** The council shall consist of—

(a) the Union Minister of Health and Family Welfare, chairperson, *ex-officio*;

(b) not more than six members having expertise in medicine with at least fifteen years of experience in handling issues related to nutrition and child health;

(c) one expert each in the field of labeling and claims, advertisement, food additives, processing aids;

(d) one member from the Union Ministry of Women and Child Development not below the rank of Joint Secretary;

(e) three eminent personalities from medical fraternity; and

(f) two Members of Parliament to be nominated, one each from Rajya Sabha and Lok Sabha.

Functions of  
the Council.

**17C.** The Council shall—

(a) lay down policies and principles to regulate sale and advertising of food products causing obesity amongst children;

(b) determine its procedure in the performance of its functions;



(c) admit any complaints regarding non-implementation of its policies; and

(d) initiate action for violating provisions of this Chapter.

**17D.** The Central Government shall provide such number of officers and other employees to the Council as may be necessary for efficient discharge of its functions.

Central Government to provide officers and employees.

**17E.** All food products containing high sugar, calories, sodium, saturated fat or any other ingredient present in food products beyond limits stipulated and detrimental to health of children shall bear label warning in black bold letters about the presence of excess ingredients.

Labeling of food products by the Council

**17F.** All food products labelled under section 17E shall not be sold within a radius of one kilometer of an educational institution and shall not to be sold to minor children.

Prohibition of sale of labelled food products near educational institutions.

**17G.** All food products labelled under section 17E shall not be advertised in print, television or any other form targeting children below the age of eighteen years.

Prohibition on advertising of labelled food products.

**17H.** (1) Whoever sells a labelled food product in contravention of the provisions of this chapter shall be punished with imprisonment for a term which may extend upto three years and fine which may extend up to ten lakh rupees.

Punishment for sale and advertisement of labelled food products.

(2) whoever advertises a labelled food product in contravention of provisions of this chapter shall be punished with imprisonment for a term which may extend upto two years and fine which may extend upto ten lakh rupees."

Punishment for advertisement of labelled food products.

## STATEMENT OF OBJECTS AND REASONS

Increasing exposure to variety of fast foods has led to rise in consumption of food products which are largely detrimental to the health of persons. While adults can recognize the harmful effects, the targeted advertising of such unhealthy food products towards younger population has led to poor lifestyle standards amongst youth. There is a need to regulate the sale and advertising of such food products so as to save children from their harmful effects.

Childhood obesity is a major challenge in the battle against rising rate of non-communicable diseases in India. The prevalence of overweight and obesity amongst children and adolescents aged 5 to 19 has risen dramatically from just 4% in 1975 to over 20% in 2020. The rise has occurred similarly amongst both boys and girls. In 2020, 20% of girls and 21% of boys were overweight. The fundamental cause of obesity and overweight is an energy imbalance between calories consumed and calories expended. Globally, there has been an increased intake of energy-dense foods that are high in fat and sugars; and an increase in physical inactivity due to the increasingly sedentary nature of many forms of work, changing modes of transportation, and increasing urbanization.

Changes in dietary and physical activity patterns are often the result of environmental and societal changes associated with development and lack of supportive policies in sectors such as health, agriculture, transport, urban planning, environment, food processing, distribution, marketing and education.

While India is already facing strong challenge in providing affordable healthcare access to its citizens, the effects of poor lifestyle habits amongst its urban citizens adds further burden on the country's resources. The establishment of the Nutrition Council under the Ministry of Health and Family Welfare with adequate representation of professionals will be vital in regulating the use of ingredients resulting in obesity. A warning label on food products having more than the permissible limit of certain ingredients too caution the consumers about their ill-effects should be made mandatory.

It is also necessary to place restriction on advertisement of food products which cause obesity and sale of such food products near educational institutions. The Bill, accordingly, seeks to amend the Food Safety and Standards Act, 2006 with a view to reduce consumption of unhealthy food products by children.

Hence, this Bill.

DR. KANIMOZHI NVN SOMU.

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FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to constitute the Nutrition Council to regulate the sale and advertising of food products which cause obesity amongst children and provides for appointments of experts, officers and employees thereto. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about one hundred crore rupees per annum would be involved from the Consolidated Fund of India.

A non-recurring expenditure of about two hundred crore rupees is also likely to be involved.

**BILL NO. CII OF 2022**

*A Bill to provide for special financial assistance to the State of Tamil Nadu for the purpose of sustainable and balanced development of growth-oriented infrastructure such as affordable housing, drinking water, roads, sanitation, creation of grain and fodder banks, skill development, textile parks, food processing zones, cloud seeding and welfare schemes for women, children, senior citizens and people living below the poverty line in the State and encouraging traditional water conservation through lakes, ponds, wells rainwater harvesting and afforestation and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

Short title and commencement. **1.** (1) This Act may be called the Special Financial Assistance to the State of Tamil Nadu Act, 2022.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. There shall be paid such sums of moneys out of the Consolidated Fund of India, every year, as Parliament may by due appropriation provide, as special financial assistance to the State of Tamil Nadu to meet the costs of such schemes of development as may be undertaken by the State Government of Tamil Nadu with the approval of the Union Government for the purposes of—

(a) improvement of drinking water facilities;

(b) implementation of schemes aimed at improving the health and educational standards of the girl child;

(c) providing for welfare measures aimed at improving the condition of agricultural and migrant labourers;

(d) providing for measures aimed at lowering of infant mortality rate, improving the maternal health and promoting institutional delivery;

(e) providing employment to members of families living below poverty line and unemployed youth through skill development;

(f) providing water and sanitation facilities in rural and urban areas;

(g) creating good quality infrastructure of roads, rail, highways, street lights, schools, colleges and transport;

(h) creating awareness amongst people about disaster preparedness plan and training them to deal with disasters;

(i) creation and maintenance of water conservation bodies such as check dams;

(j) digging of open wells, ponds and desiltation of such bodies from time to time under the Mahatma Gandhi National Rural Employment Guarantee Act, 2005;

(k) encouraging and providing irrigation facilities to the farming sector and promotion of sustainable practices like organic farming coupled with modern facilities like drip irrigation and sprinklers to farmers;

(l) capping of water guzzling sugarcane area and promotion of drought resilient crops;

(m) promotion of rain water harvesting and watershed development to ensure replenishment of groundwater;

(n) afforestation particularly on vacant or barren and waste land with the help of villagers and village Panchayats including community afforestation;

(o) promotion for growing fodder and setting up fodder and food grain banks at conspicuous places;

(p) initiating welfare measures for improving the conditions of agricultural workers, senior citizens, women, children and poor people;

(q) establishing cold storages and warehouses for farmers;

(r) settling the debt of farmers;

(s) providing compensation and relief to farmers and agricultural labourers for any damage to crops caused due to rainfall deficit, pest attack, flood, hailstorm or any other natural calamity;

(t) promotion of research and development through Krishi Vigyan Kendra in agriculture and drought management to ensure better and inexpensive inputs like seeds, fertilizers and pesticides;

(u) promotion of sectors like livestock and poultry;

(v) promoting food processing industries based on local agricultural products; textile parks;

(w) implementation of social awareness campaigns through Non-Governmental organisations and Self-Help Groups relating to farmer credit, water literacy and drought management through change in cropping pattern;

(x) promotion and implementation of cloud seeding through silver iodide; and

(y) such other provisions as the State Government of Tamil Nadu may deem necessary for carrying out the purposes of this Act.

Power to  
remove  
difficulty.

**3.** If any difficulty arises in giving effect to the provisions of this Act, the President of India may, by order, make such provisions not inconsistent with the provisions of this Act which appears to him to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of two years from the date of commencement of this Act.

Act to  
supplement  
other laws.

**4.** The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force dealing with the subject matter of this Act.

## STATEMENT OF OBJECTS AND REASONS

The State of Tamil Nadu needs assistance from the Central Government for the successful completion of various schemes being undertaken at present with an aim to improve the standard of life of the people, improve the level of education and health condition of the girls, to encourage the girl students of families living below poverty line to pursue higher education and also to provide incentives for people living below poverty line to pursue higher education. The condition of farmers and agricultural labourers in the State, their welfare and protection are of paramount importance. Central assistance to the State is also needed for the holistic development and further reduction in the maternal and infant mortality rates.

Recurring droughts have made the farmers of the State to seek support from the Government. The situation wherein droughts have been a frequent occurrence during the past fifty years has to be stopped through massive water conservation with check dams and other structures to arrest rain water run off.

The traditional methods of water conservation through digging of open wells, ponds, lakes and such other bodies and time to time desiltation of such water bodies need to be undertaken. Rain water harvesting has to be promoted as a mass movement in the State. Afforestation on a large scale particularly on barren lands and wastelands has to be promoted involving villagers and village Panchayats by providing incentives which can certainly arrest the desertification. Unfortunately certain backward regions of the State are not much developed in comparison to other urban regions of the State in terms of infrastructure facilities, such as, potable water, roads, electricity, sanitation and other development indicators such as employment, per capita income and education particularly of the girl child. Welfare measures for the senior citizens, widows, physically handicapped or infirm do not exist in these regions of the State. Tamil Nadu has to be allocated its fair share of resources by the Central Government. As a welfare State, the Government has to provide all these facilities and work towards giving a requisite push for overall and all round development of the State.

Hence, this Bill.

DR. KANIMOZHIN NVN SOMU.

## FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for special financial assistance to the State of Tamil Nadu to be paid out of the Consolidated Fund of India, every year, as Parliament may by due appropriation provide, to meet the costs of such schemes of development, as may be undertaken by the State of Tamil Nadu with the approval of the Central Government. The Bill, therefore, on enactment, will involve expenditure out of the Consolidated Fund of India. As the sums of moneys which will be given to the State of Tamil Nadu as special financial assistance by appropriation by law made by Parliament will be known only after the welfare schemes to be implemented by the State Government with the approval of the Central Government are identified, it is not possible to give the estimates of recurring expenditure, which would be involved out of the Consolidated Fund of India at this state.

2. No non-recurring expenditure is likely to be incurred from the Consolidated Fund of India.



## BILL No. CIX OF 2022

*A Bill to effectively prevent and combat hate speech and hate crimes, their negative effects on individuals, groups and societies, and to protect the constitutional values of autonomy, dignity, and equality and for matters connected therewith and incidental thereto.*

BE it enacted by the Parliament in the Seventy-third Year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

1. (1) This Act may be called the Hate Speech and Hate Crimes (Prevention) Act, 2022. Short title and commencement.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

**2.** In this Act, unless the context otherwise requires;—

(a) "accused person" means a person who has been arrested for or formally charged with an offence under this Act;

(b) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(c) "audience" means a person who is a listener or a viewer of hate speech;

(d) "Court of Session" means a court defined under section 9 of the Code of Criminal Procedure, 1973;

(e) "group of persons" means a group of two or more persons;

(f) "hate crime" means an offence defined under section 15 of this Act;

(g) "hate speech" means an offence defined under section 3 of this Act;

(h) "hatred" and "hostility" means intense and irrational emotions of opprobrium, enmity and detestation towards the victim;

(i) "victim" means any person, who has suffered physical, mental, psychological or monetary harm as a result of the commission of any offence under this Act;

(j) "witness" means any person who is in possession of any information or has knowledge necessary for the purpose of investigation, inquiry, or trial of any crime involving an offence under this Act.

## CHAPTER II

### OFFENCE OF HATE SPEECH

Hate speech.

**3.** A person who intentionally and within the hearing or sight of another person or group of persons uses, publishes, presents, produces, plays, provides, distributes or directs the performance of any speech that:—

(i) incites, justifies, promotes or spreads discrimination, hatred, hostility, or violence against a person or group of persons; or

(ii) denigrates a person or group of persons by reasons of their real or attributed characteristics or status, which includes religion, race, caste or community, sex, gender identity, sexual orientation, place of birth, national or ethnic origin, language, age, or disability shall be guilty of an offence of hate speech.

Protection of action done in good faith.

**4.** No legal proceedings shall be instituted against a person under section 3 for an action done in good faith in the course of engagement in:

(i) any artistic or creative, performance or other form of expression, to the extent that such performance or expression does not advocate hatred or hate speech; or

(ii) any academic or scientific inquiry; or

(iii) fair and accurate reporting or commentary in the public interest.

Punishment for hate speech.

**5. (1)** Whoever commits the offence of hate speech shall be punished with imprisonment of either description for a term which may extend to three years or with fine, or with both.

(2) The award of punishment under this section shall be based on the severity of the offence, which shall be assessed by the following six factors:—

(i) social and political context prevalent at the time the offence was committed;

(ii) the position or status of the offender in the society;

(iii) the relationship between the intent of the offender, subject and object of the offence, and the audience;

(iv) content of the offence which may include the degree to which the offence was provocative and direct, as well as the form, style, nature of arguments deployed in the offence;

(v) reach of the offence, its public nature, its magnitude and size of the audience; and

(vi) probability that the offence would succeed in inciting actual action against the victim. Punishment for hate speech.

(3) An offence of hate crime shall be cognizable, non-bailable and non-compoundable and shall be triable by the Court of Session exercising jurisdiction in that area in which the offence is committed.

### CHAPTER III

#### INVESTIGATION, PROSECUTION AND TRIAL FOR THE OFFENCE OF HATE SPEECH

2 of 1974.

**6.** (1) The provisions of the Code of Criminal Procedure, 1973 (hereinafter referred to as the Code of Criminal Procedure) shall apply to this Chapter, save as supplemented to the extent provided under this Chapter.

Application of the Code of Criminal Procedure.

(2) Notwithstanding anything contained in sub-section (1), section 95 of the Code of Criminal Procedure shall apply to any newspaper, book, painting, drawing or photograph, the publication of which is punishable under section 5 of this Act.

(3) Notwithstanding anything contained in sub-section (1), section 96 of the Code of Criminal Procedure shall apply to any newspaper, book, painting, drawing or photograph, punishable under section 5 of this Act against which a declaration of forfeiture has been made under section 95 of the Code of Criminal Procedure.

**7.** No police officer below the rank of Inspector shall investigate an offence committed under section 3, of this Act.

Powers to investigate.

**8.** (1) The Court of Session shall follow the procedure for the trial prescribed by the Code of Criminal Procedure, while trying the accused person.

Powers of Court of Session.

(2) The Court of Session may also try any offence, other than the offence under section 3, with which the accused person may, under the Code of Criminal Procedure, be charged at the same trial if the offence is connected with the offence under this Act.

(3) If, in the course of any trial under this Chapter, it is found that the accused person has committed any other offence, the Court of Session may, try such person of such offence and pass any sentence authorised by law for the punishment thereof.

**9.** (1) The Court of Session may, on an application made by a witness in any proceeding before it or by the Public Prosecutor in relation to such witness or on its own motion, take such measures as it deems fit for keeping the identity and address of the witness secret.

Rights of victims and witnesses.

(2) A victim shall have the right to reasonable, accurate, and timely notice of any court proceeding and shall be entitled to be heard at any proceeding under this Chapter

in respect of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written submissions on conviction, acquittal or sentencing.

(3) Notwithstanding the offender or any suspect as the case may be, having been arrested, granted bail, charged, convicted or sentenced, the Superintendent of Police or an officer designated by him shall inform the victim in writing about the details of the offender or suspect, and the progress of investigations into the offence.

(4) The victim shall have the right to receive a copy of any statement of witness recorded during investigation or inquiry, and a copy of all statements and documents filed under section 173 of the Code of Criminal Procedure, including the charge-sheet or closure report submitted by police.

(5) A victim shall be entitled to receive free legal aid, if they so choose and to engage any advocate who they choose from among those enrolled in the legal aid panel under the Legal Services Authorities Act, 1987, and the Legal Services Authority established under the said Act shall pay all costs, expenses and fees of the advocate appointed by the victim or informant in accordance with relevant rules. 39 of 1987.

(6) It shall be the duty and responsibility of the police for making arrangements for the protection of victims and witnesses against any kind of intimidation, coercion or inducement of violence or threats of violence.

(7) The police shall inform the Court of Session about the protection provided to any victim, informant or witness and the Court of Session shall periodically review the protection being provided under this section and pass appropriate orders.

Appeals.

**10.** (1) An appeal shall lie as a matter of right from any judgment, sentence or order of a Court of Session to the High Court both on facts and on law.

(2) An appeal under this section shall be preferred within a period of sixty days from the date of the judgment, sentence or order appealed from.

Provided that the High Court may entertain an appeal after the expiry of the said period of sixty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of sixty days. Appeals.

## CHAPTER IV

### OFFENCE OF HATE CRIME

Hate crime.

**11.** "Hate crime" means any offence recognised under the Indian Penal Code, 1860 (hereafter in referred to as the Penal Code), the commission of which is motivated by the offender's prejudice or intolerance towards the victim by reasons of their real or attributed characteristics or status, which includes religion, race, caste or community, sex, gender identity, sexual orientation, place of birth, national or ethnic origin, language, age or disability. 45 of 1860.

Punishment for hate crime.

**12.** Whoever commits any offence which is hate crime in accordance with the provisions of section 11 shall be punished with the punishment as provided for in the Penal Code for such offence:

Provided that the severity of such punishment shall be determined by the fact that such offence has been classified as a hate crime under section 11 of this Act.

Provided further that such punishment shall be just and reasonable.

## CHAPTER V

## REPORTING

**13.** (1) The Central Government shall publish annually in such manner as may be prescribed, both national and State-wise data regarding:—

- (a) hate speech cases and hate crime cases registered and at their disposal; and
- (b) persons convicted for the offence of hate speech and hate crime.

(2) The data under sub-section (1) shall be classified in a manner as may be prescribed.

Publication of registered hate speech and hate crime cases and convictions.

## CHAPTER VI

## MEASURES FOR EDUCATION AND RAISING AWARENESS

**14.** The appropriate Government, in consultation with the National Human Rights Commission and the State Human Rights Commissions, as the case may be, shall promote awareness about the dangers of hate crimes and hate speech by:—

- (i) conducting education and information campaigns to raise awareness of the extent of hate speech and the harm it causes to individuals and communities;
- (ii) conducting education and information campaigns to inform the public about the prohibition against hate crimes and hate speech;
- (iii) conducting educational and information campaigns specifically for children and youth, parents and guardians, youth workers and volunteers working with children to enable them to understand and deal with hate crimes and hate speech;
- (iv) taking specific measures to support Government and private educational institutions in the conduct of activities and cultural programmes for the general public that enhance commitment to human rights as part of a pluralistic democratic society, encourage critical thinking, promote equality and inter-cultural and inter-faith dialogue, and strengthen the competences needed to identify and counter hate crimes and hate speech;
- (v) providing assistance and advice to any person who wants to file a complaint of a hate crime or hate speech;
- (vi) ensuring that all public officials who may be involved in the investigation and prosecution of hate crimes and hate speech are educated and informed of the prohibition against these offences; and
- (vii) training public officials on the prohibition, prevention and combating of hate crimes and hate speech and educating them on the prevailing social context in the country.

Duties of the appropriate Government.

## CHAPTER VII

## AMENDMENTS TO THE INDIAN PENAL CODE

**15.** Section 153A of the Penal Code shall be omitted.

Omission of section 153A.

**16.** Section 153B of the Penal Code shall be omitted.

Omission of section 153B.

Omission of section 295A.

**17.** Section 295A of the Penal Code shall be omitted.

Omission of section 298.

**18** Section 298 of the Penal Code shall be omitted.

Insertion of new section 295AA.

**19.** After section 295 of the Penal Code, the following new section shall be inserted, namely:—

Advocacy of hatred and/or hostility towards a religion or religious beliefs.

**"295AA.** A person who intentionally uses, publishes, presents, produces, plays, provides, distributes or directs the performance of any speech that advocates hatred or hostility against a religion or a religious belief of any class of citizens of India, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both:

Provided that such punishment shall not apply to an interpretation in good faith of any religious tenet, belief, teaching, doctrine or writings, to the extent that such interpretation does not advocate hatred that constitutes incitement to cause harm:

Provided further that such punishment shall be based on the severity of the offence, which shall be assessed by the factors as specified in sub-section (2) of section 5 of this Act."

Insertion of new sections 304C and 304D.

**20.** After section 304B of the Penal Code, the following new sections shall be inserted, namely:—

Mob lynching.

**"304C.** Where a group of two or more persons, commit any act or series of acts of violence or aid, abet or attempt an act of violence, whether spontaneous or planned, by a mob on the grounds of religion, race, caste or community, sex, gender identity, sexual orientation, place of birth, national or ethnic origin, language, age, or disability, such a group shall be guilty of an offence of mob lynching.

Punishment for Mob lynching

**304D.** Whoever commits the offence of mob lynching:—

(i) where the offence leads to the victim suffering hurt, shall be punished with imprisonment of either description for a term which may extend to seven years and with fine which may extend to one lakh rupees;

(ii) where the act leads to the victim suffering grievous hurt, shall be punished with imprisonment of either description for a term which may extend to ten years, and with fine which shall not be less than twenty-five thousand rupees and may extend to three lakh rupees;

(iii) where the act leads to the death of the victim, shall be punished with rigorous imprisonment for life and with fine which shall not be less than one lakh rupees and may extend to five lakh rupees." Insertion of new sections 304C and 304D.

Amendment of section 505.

**21.** In section 505 of the Penal Code, after clause (3), the following proviso shall be inserted, namely:—

"Provided that such punishment shall be based on the severity of the offence, which shall be assessed by the factors specified in sub-section (2) of section 5 of the Hate Speech and Hate Crimes (Prevention) Act, 2022."

## CHAPTER VIII

## AMENDMENTS TO THE CODE OF CRIMINAL PROCEDURE

**22.** In section 95 of the Code of Criminal Procedure, for the words, figures and letters "section 124A or section 153A or section 153B or section 292 or section 293 or section 295A", the words, figures and letters "section 124A or section 292 or section 293 or section 295AA" shall be substituted.

Amendment  
of section  
95.

**23.** In section 106 of the Code of Criminal Procedure, in clause (a) of sub-section (2), the words, figures and letters "section 153A or section 153B or" shall be omitted.

Amendment  
of section  
106.

**24.** In section 108 of the Code of Criminal Procedure, in sub-clause (a) of clause (i) of sub-section (1), for the words, figures and letters "section 124A or section 153A or section 153B or section 295A", the words, figures and letters "section 124A or section 295AA" shall be substituted.

Amendment  
of section  
108.

**25.** In section 196 of the Code of Criminal Procedure:

Amendment  
of section  
196.

(i) in clause (a) of sub-section (1), the words, figures and letters "section 153A section 295A", the words, figures and letters "section 295AA" shall be substituted; and

(ii) in clause (a) of sub-section (1A), the words, figures and letters "section 153B" shall be omitted.

**26.** In section 320 of the Code of Criminal Procedure, in sub-section (1), the entry pertaining to section 298 in the TABLE, shall be omitted.

Amendment  
of section  
320.

**27.** In the First Schedule of the Code of Criminal Procedure, under the heading "I. OFFENCES UNDER THE INDIAN PENAL CODE":—

Amendment  
of the first  
Schedule.

(1) entry relating to section 153A shall be omitted;

(2) entry relating to section 153B shall be omitted;

(3) entry relating to section 295A shall be omitted;

(4) entry relating to section 298 shall be omitted;

(5) after the entry relating to 295, the following entry shall be inserted, namely:—

Section	Offence	Punishment	Cognizable or Non- Cognizable	Bailable or Non- Bailable	By what Court triable
295AA	Advocacy of hatred or hostility towards a religion or religious beliefs	Imprisonment for 3 years, or fine, or both	Cognizable	Non-bailable	Court of Session

(6) after the entry relating to section 304B, the following entry shall be inserted, namely:—

Section	Offence	Punishment	Cognizable or Non- Cognizable	Bailable or Non- Bailable	By what Court triable
304C	Mob Lynching	Imprisonment for life or imprisonment for 10 years, or imprisonment for 7 years and fine.	Cognizable	Non-bailable	Court of Session

## CHAPTER IX

### AMENDMENT TO THE INFORMATION TECHNOLOGY ACT, 2000

Insertion of section 66AA. **28.** After section 66 of the Information Technology Act, 2000, the following section shall be inserted, namely:— 21 of 2000.

Punishment for hate speech through electronic communication.

**"66AA.** Any person who intentionally publishes, distributes or otherwise makes available an electronic communication that constitutes hate speech as contemplated in section 3 of the Hate Speech and Hate Crimes (Prevention) Act, 2022 which is accessible to another person, shall be punishable with imprisonment for a term which may extend to three years and with fine.

*Explanation:* For the purpose of this section, an electronic communication means a message or information created or transmitted or received on a computer, computer system, computer resource or communication device including attachments in text, image, audio, video and any other electronic record, which may be transmitted with the message."



## STATEMENT OF OBJECTS AND REASONS

In recent years, India has witnessed an increase in the discrimination and dehumanisation of marginalised groups through hate speech. The Law Commission, in its 267th report, and the Supreme Court, on several occasions, have expressed the need for a specific law to combat hate speech. However, at present, no such law exists in our country. Further, India has an international obligation under article 20(2) of the International Convention Civil and Political Rights, 1966, to prohibit hate speech. This Bill seeks to remedy the issue.

Hate speech is problematic, mainly for three reasons. First, the hostile and unwelcoming environment resulting from hate speech alienates the victims and leads them to recede from the active fabric of the social structure. Thus, it deprives them of choices and opportunities and undermines their autonomy. Second, hate speech affects the dignity of the victims since it undermines the victim's self-worth and fails to recognise them as full-fledged agents whose views count. Third, hate speech affects the victim's status in the society, and is responsible for the entrenchment of stereotypes which result in inequality and subordination. Hence, to effectively prevent and combat hate speech, and to preserve and uphold the constitutional values of autonomy, dignity and equality, the Bill:

- (a) defines the offence of hate speech and provides a list of exceptions;
- (b) provides the punishment for hate speech;
- (c) provides the manner in which investigations, prosecutions and trial should be conducted;
- (d) provides for the rights of victims and witnesses during the trial;
- (e) mandates the annual reporting of the data related to hate speech in a prescribed manner;
- (f) mandates the appropriate Government, the National Human Rights Commission, and the State Human Rights Commission to take up educational and awareness-raising measures for the prevention of hate speech;
- (g) makes requisite amendments in the Indian Penal Code, 1860 and the Code of Criminal Procedure, 1973; and
- (h) inserts new provisions in the Information Technology Act, 2000 and the Information Technology (Intermediary Guidelines) Rules, 2021 to prevent hate speech on online platforms.

Hate Crimes have also witnessed a steady rise over the last few years in India. Pertinently, the cases of mob lynching have plagued the country, and the Supreme Court, in *Tehseen S. Poonawalla v. Union of India* and others, has urged the Parliament to "create a separate offence for lynching and provide adequate punishment for the same". Therefore, to prevent crimes that are motivated by the offender's prejudice towards the victim, including the crime of mob violence, the Bill:

- (a) defines the offence of hate crime and makes a provision for its punishment;
- (b) inserts a provision in the Indian Penal Code, 1860, which define the offence of mob violence;
- (c) inserts a provision in the Indian Penal Code, 1860, which provides for the punishment of mob violence. Such punishment is proportionate to the harm caused to the victim;
- (d) makes requisite amendments in the Code of Criminal Procedure;

(e) mandates the annual reporting of the data related to hate crimes in a prescribed manner; and

(f) mandates the appropriate Government, the National Human Rights Commission, and the State Human Rights Commission to take up educational and awareness-raising measures for the prevention of hate crimes.

Hence, this Bill.

K.R. SURESH REDDY.

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FINANCIAL MEMORANDUM

Clause 14 of the Bill provides for the duties of the Central Government, towards raising awareness of the dangers of hate crimes and hate speech. The Bill, therefore, if enacted, would involve both non-recurring and recurring expenditure from the Consolidated Fund of India. However, at this juncture, it is difficult to estimate the expenditures.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill provides that the data regarding hate crime and hate speech shall be published by the National Crime Bureau of India in the 'Crime in India' Report and the data so published shall also be classified in the manner as may be prescribed. The matters in respect of which the rules and regulations may be made are generally matters of procedure and administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

## BILL NO. XVII OF 2023

*A Bill further to amend the Andhra Pradesh Reorganisation Act, 2014.*

BE it enacted by the Parliament in the Seventy-fourth Year of the Republic of India as follows:—

Short title and  
commencement.

**1.** (1) This Act may be called the Andhra Pradesh Reorganisation (Amendment) Act, 2023.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of  
new section  
90A.

**2.** In the Andhra Pradesh (Reorganisation) Act, 2014, (hereinafter referred to as the principal Act), after section 90, the following section shall be inserted, namely:—

Kaleshwaram  
Lift Irrigation  
Project to be  
a national  
project.

"90A. (1) The Kaleshwaram Lift Irrigation Project is hereby declared to be a national project.

(2) In the interest of the public, the Central Government shall ensure the execution of the project in an expedient manner."

**3.** In the Thirteenth Schedule of the principal Act, under the heading "Infrastructure", after entry 12, the following entries shall be inserted, namely:—

Amendment  
of the  
Thirteenth  
Schedule.

"12A. The Government of India shall develop an Information Technology Investment Zone at Hyderabad in the successor State of Telangana, which is to be completed in phases with Phase I by end-2026.

12B. The Government of India shall establish a Turmeric Board at Nizamabad in the successor State of Telangana."

## STATEMENT OF OBJECTS AND REASONS

The objectives of this Bill are four-fold:

First, the Bill proposes to accord the Kaleshwaram Lift Irrigation Project (KLIP) a national project status. The KLIP, a multi-purpose irrigation project on the Godavari River in Kaleshwaram, Telangana, is currently the world's largest multi-stage lift irrigation project. The project envisages:

- (a) the diversion of 195 thousand million cubic feet (TMC) of Godavari water to the Sripada Rao Yellampally project and subsequently to Mid Manair Reservoir by lifting it to higher contours to bring large extents of lands in the basin under irrigation;
- (b) the irrigation of about 18.25 lakh acres of land in 13 districts in the successor State of Telangana;
- (c) the stabilisation of about 18.82 lakh acres of land in the successor State of Telangana;
- (d) The provision of 40 TMC of drinking water and 16 TMC of water for industrial use;
- (e) the stabilisation of shortfalls in the planned utilization of water under the Sriram Sagar Project, the Singur Project, and the Nizam Sagar Project;
- (f) the restoration of groundwater level to its original state by making surface water available for irrigation.

Granting national project status to KLIP would alleviate the financial burden of the successor State of Telangana, help in the project's timely completion, and provide water to several lakh households in the successor State. In addition, the provision of water in the drought-prone areas and backward districts would also help reduce labour migration from the successor State of Telangana, prevent farmer suicides and develop and strengthen the State's food security.

Second, the Bill proposes to create an obligation on the Central Government to establish an Information Technology Investment Zone (ITIZ) in Hyderabad, Telangana. The creation of an ITIZ in Hyderabad would result in:

- (a) the generation of direct revenues of over three lakh crore rupees;
- (b) the growth of IT exports to the tune of over two lakh crore rupees;
- (c) direct employment for nearly fifteen lakh people and indirect employment of nearly fifty-three lakh people; and
- (d) an increase in tax revenue to the successor State to the extent of about thirty thousand crore rupees over twenty-five years.

Third, the Bill proposes to establish a Turmeric Board at Nizamabad, Telangana. Telangana is the country's largest turmeric-producing State, with Nizamabad producing about thirty percent of the country's total turmeric production. Turmeric is the only spice in India that can be exploited commercially on multiple scale apart from its primary use as a flavouring agent in food. The spice is mainly used as a flavouring agent, medicine for stomach disorders and food poisoning, an Ayurvedic component in toothpaste, facial powders, and natural dye. To exploit the inherent natural advantages that our country possesses in the production of turmeric and to safeguard the interests of turmeric farmers, a nodal agency must be created.

The establishment of the Turmeric Board would help:—

- (a) the export promotion of turmeric;
- (b) the development and implementation of good agricultural practices, through scientific, technological research and regulation of domestic marketing of turmeric;

(c) provide a common platform for Indian exporters and international buyers through international exhibitions and meetings;

(d) the promotion of organic production and certification of turmeric;

(e) the promotion of exports of organic turmeric and organic turmeric products;

(f) the formulation and implementation of various developmental schemes;

(g) rendering assistance for studies and research on better processing practices, quality management systems, improvement of grading methods and effective packaging techniques;

(h) the provision of inputs to the Government on policy matters relating to import and export of turmeric;

(i) the registration and licensing of turmeric exporters;

(j) manage a comprehensive and updated information for exporters and importers;  
and

(k) the collection and documentation of trade information.

Hence, this Bill.

K. R. SURESH REDDY.

## FINANCIAL MEMORANDUM

Clause 2 provides for the declaration of Kaleshwaram Lift Irrigation Project as a national project. Clause 3 provides for the establishment of an Information Technology Investment Zone at Hyderabad, and a Turmeric Board at Nizamabad, in the successor State of Telangana.

The Bill, therefore, if enacted, would involve a non-recurring expenditure of one lakh two hundred eighteen thousand crore rupees, and a recurring expenditure of one hundred crore rupees from the Consolidated Fund of India.



## BILL NO. C OF 2022

*A Bill further to amend the Prevention of Money Laundering Act, 2002.*

BE it enacted by the Parliament in the Seventy-third Year of the Republic of India as follows:—

**1.** (1) This Act may be called the Prevention of Money Laundering (Amendment) Act, 2022. Short title, and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

15 of 2003.

**2.** In section 3 of the Prevention of Money Laundering Act, 2002 (hereinafter referred to as the principal Act), Amendment of section 3.

(i) for the Explanation, the following Explanation shall be substituted, namely,—

“*Explanation.*—For the removal of doubts, it is hereby clarified that, the process or activity connected with proceeds of crime is a continuing activity

and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment or possession or acquisition or use or projecting it as untainted property or claiming it as untainted property in any manner whatsoever.”;

(ii) after the Explanation, the following proviso shall be inserted, namely,—

“Provided that no complaint for an offence of money laundering shall be entertained by the Court unless the concerned officer as may be appointed for the purpose or someone authorized by him establishes that the proceeds of crime have been generated from a scheduled offence and that a First Information Report has already been filed for a scheduled offence in the concerned police station.”.

Amendment  
of section 5.

**3. In section 5 of the principal Act—**

(i) in sub-section (1), for clause (a), the following clause shall be substituted, namely—

“(a) any person is in possession of any proceeds of a crime for which a First Information Report has been filed; and”;

(ii) in sub-section (1), the second proviso shall be omitted;

(iii) after sub-section (2), the following proviso shall be inserted, namely—

“Provided that the Adjudicating Authority shall furnish a copy of such order to the accused.”; and

(iv) after sub-section (5), the following proviso shall be inserted, namely—

“Provided that the Director or the officer concerned shall furnish a copy of such complaint to the accused.”.

Amendment  
of section 17.

**4. In section 17 of the principal Act—**

(i) in sub-section (1), in clause (f), the word “on oath” shall be omitted;

(ii) in sub-section (2),—

(a) the words “or upon issuance of a freezing order” shall be omitted;

(b) the words “in a sealed envelope” shall be omitted;

(iii) after sub-section (2), the following proviso shall be inserted, namely—

“Provided that the Adjudicating Authority shall furnish a copy of such reasons to the accused.”;

(iv) in sub-section (3), the proviso shall be omitted; and

(v) for sub-section (4), the following sub-section shall be substituted, namely—

“The authority seizing any record or property under sub-section (1) shall, within a period of thirty days from such seizure, file an application, requesting for retention of such record or property seized under sub-section (1), before the Adjudicating Authority.”.

Amendment  
of section 19.

**5. In section 19, of the principal Act—**

(i) after sub-section (1), the following proviso shall be inserted, namely—

“Provided that the Director, Deputy Director, Assistant Director or any other officer authorized in this behalf by the Central Government shall exercise power of arrest as provided under Chapter V of the Code of Criminal Procedure, 1973.”;

(ii) after sub-section (2), the following proviso shall be inserted, namely—

“Provided that the Adjudicating Authority shall furnish a copy of such order along with material in possession to the accused.”.

6. For section 24 of the principal Act, the following section shall be substituted, namely—

Substitution  
of section 24.

“24. In any proceeding relating to proceeds of crime under this Act,—

Burden of  
Proof.

(a) the burden of proof shall lie on the prosecution to establish, beyond reasonable doubt, the guilt of a person accused with the offence of money laundering as provided under section 3; and

(b) in the case of any other person, the Authority or Court, shall not presume that such proceeds of crime are involved in money-laundering, unless the prosecution establishes the contrary beyond any reasonable doubt.”.

7. In section 44, of the principal Act, in sub-section (1),—

Amendment  
of section 44.

(i) for clause (b), the following clause shall be substituted, namely—

“(b) a Special Court after the completion of an investigation by an authority authorized in this behalf under this Act, can take cognizance of an offence under section 3;”;

(ii) for clause (c), the following clause shall be substituted, namely—

“(c) if the Court which has taken cognizance of the scheduled offence is other than the Special Court, the trial for the scheduled offence shall continue in the concerned court where cognizance has been taken;”;

(iii) the Explanation shall be omitted.

8. In section 45 of the principal Act, in sub-section (1), clause (ii), shall be omitted.

Amendment  
of section 45.

9. In section 50, of the principal Act,—

Amendment  
of section 50.

(i) after sub-section (3), the following proviso shall be inserted, namely—

“Provided that such persons shall not be bound to answer the questions put to them by the officer concerned, which would have a tendency to expose them to a criminal charge or to a penalty to forfeiture.”; and

(ii) sub-section (4) shall be omitted.

10. In section 63 of the principal Act, in sub-section (2),—

Amendment  
to Section 63.

(i) for the words “If any person”, the words, “If any person, except persons accused of offence under this Act” shall be substituted;

(ii) for clause (a), the following clause shall be substituted, namely—

“(a) being legally bound to state the truth of any matter relating to an offence under section 3, refuses to answer any question, other than questions which would have a tendency to expose him to a criminal charge or to a penalty to forfeiture, put to him by an authority in the exercise of its powers under this Act; or”;

(iii) clause (b) shall be omitted.

## STATEMENT OF OBJECTS AND REASONS

India's commitment to the Vienna Convention to combat money laundering had prompted the enactment of the Prevention of Money Laundering Act, 2002 (PMLA) with the intention of curbing the menace of money laundering and punishing the offenders by confiscating their property involved in or derived from money laundering.

2. The Ministry of Finance in its reply to the Lok Sabha stated that the Enforcement Directorate (ED) has conducted over 1,758 raids and special investigations between 2011 and 2020 under the provisions of the PMLA. The Government in its response said that between July 2005 and February 2022, the ED has been able to secure only 23 convicts for the offence of money laundering and one was discharged on the basis of merit.

3. The procedure being followed under the PMLA, is violative of the tenets of the criminal judicial system and has the potential to be violative of the rights enshrined under Part III of the Constitution, particularly under articles 14, 20 and 21. While there should be no sympathy for criminals, there has to be a dedicated effort from the end of the State to adhere to the principles of natural justice and meet the ends of criminal laws.

4. Accordingly, this Bill proposes to amend certain provision of the PMLA, as follows:—

(a) In section 3 of the Act, explanation (i) is proposed to be omitted as this provision increases the scope of judicial interpretation and limits the definition of money laundering and a proviso is proposed to be inserted to place responsibility upon the prosecution to establish the offence to make the provision in line with the basic tenets of criminal justice.

(b) In section 5 of the Act, which granted overreaching powers to the ED to attach the property of the accused without informing her or him the reasons of such attachment, amendments have been proposed to limit the powers of ED so that they be bound to serve a copy of the complaint under section 5 to the accused. Further, second proviso of section 5(I) is proposed to be deleted as it has an overriding effect over the first proviso and renders it toothless, despite the safeguard of the Code of Criminal Procedure, 1973 (CrPC) and gives unchecked powers to the ED to attach the property of the accused on flimsy grounds.

(c) In section 19 of the Act, amendments have been proposed to bind the officials by all the procedures under Chapter V of CrPC, provide additional safeguard to the accused and ensure the integration of the scheme of CrPC.

(d) In section 24, by way of amendment, the burden of proof has been shifted to the prosecution to establish the guilt of the accused beyond reasonable doubt, which is in line with the provisions of Chapter XVIII of CrPC.

(e) In section 45 of the Act, an amendment has been proposed to omit the contentious twin bail condition which was in contravention to the principles of criminal justice.

(f) In section 50, a proviso has been proposed to be inserted to provide additional safeguards to the accused and preserve him from self incrimination.

(g) In section 63, amendments have been proposed to limit the scope of judicial interpretation to strictly not mean any person accused under PMLA which includes accomplice or co-accused as well.

Hence, this Bill.

RAGHAV CHADHA.

## BILL No. CV OF 2022

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

**1.** (1) This Act may be called the Constitution (Amendment) Act, 2022.

Short title and  
Commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2.** For article 153 of the Constitution the following new article shall be substituted, namely:—

Substitution  
of article 153.

**"153.** (1) The office of Governor shall cease to exist.

Cessation of  
office of  
Governor.

(2) All the existing powers and responsibilities of the Governor shall be vested in the President of India; unless specified otherwise."

Substitution of article 154. **3.** For article 154 of the Constitution the following article shall be substituted, namely:—

Executive Power of the State. **"154.** The executive power of the State shall be vested in the Council of Ministers of the State, headed by the Chief Minister of the State and shall be exercised by him directly."

Omission of article 155. **4.** Article 155 of the Constitution shall be omitted.

Omission of article 156. **5.** Article 156 of the Constitution shall be omitted.

Omission of article 157. **6.** Article 157 of the Constitution shall be omitted.

Omission of article 158. **7.** Article 158 of the Constitution shall be omitted.

Omission of article 159. **8.** Article 159 of the Constitution shall be omitted.

Omission of article 160. **9.** Article 160 of the Constitution shall be omitted.

Omission of article 161. **10.** Article 161 of the Constitution shall be omitted.

Omission of article 162. **11.** Article 162 of the Constitution shall be omitted.

Omission of article 163. **12.** Article 163 of the Constitution shall be omitted.

Amendment of article 164. **13.** In article 164 of the Constitution,

(i) for clause (1), the following clause shall be substituted, namely:—

"(1) The Chief Minister shall be appointed by the Chief Justice of the State and the other Ministers shall be appointed by the Chief Justice of the State on the advice of the Chief Minister:

Provided that in the States of Chhattisgarh, Jharkhand, Madhya Pradesh and Odisha, there shall be a Minister in charge of tribal welfare who may in addition be in charge of the welfare of the Scheduled Castes and Backward Classes or any other work.";

(ii) for clause (3), the following clause shall be substituted, namely:—

"(3) Before a Minister enters upon his office, the Chief Justice of the State shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule."

Substitution of article 200. **14.** For Article 200, the following article shall be substituted, namely:—

Assent of the Bill. **"200.** When a Bill has been passed by the Legislative Assembly of a State or, in the case of a State having a Legislative Council, has been passed by both Houses of the Legislature of the State, it shall deemed to be passed and shall come into force on such date, as the State Government may, by notification in the official gazette, appoint."

Omission of article 201. **15.** Article 201 of the Constitution shall be omitted.

Amendment to article 356. **16.** In article 356 of the Constitution, in clause (1),—

(i) for the word 'Governor', the words "Council of Ministers headed by the Chief Minister" shall be substituted;

(ii) in sub-clause (a), the words 'the Governor or', shall be omitted.

## STATEMENT OF OBJECTS AND REASONS

The Governor of a State serves as its chief executive. He serves as the notional executive leader and a representative of the Central Government. In contrast to being the constitutionally designated head of State, the Governor has increasingly come under scrutiny for acting as the Centre's representative. On numerous occasions, Governments have appointed Governors who are politicians or former bureaucrats. This is a violation of the legally mandated neutral seat and has resulted in prejudice.

2. The Constituent Assembly was divided on the powers of the Governor of a State. The Governors were unanimously agreed to be representatives of the Central Government, similar to the Governors appointed under the British Raj. Many members pointed out that the wordings of the articles related to State Governors were an identical replica of the provision of the British-era Government of India Act of 1935. The British regent served as the Viceroy's representative in each British Province prior to independence. However, following independence, States are no longer the subjects of the Centre.

3. The architects of the Constitution, like all other constitutional authorities, bestowed a tremendous deal of faith in the position of Governor. Whether the Constitution and its framers' faith in the institution of Governor are honored is a subject that requires contextual interpretation in the light of the Constitution's provisions and political realities. The Governor's position has deteriorated to the point that it is imperative to abolish it and replace it.

Hence, this Bill.

RAGHAV CHADHA.

## BILL NO. XIX OF 2023

*A Bill to decriminalize the offence of defamation.*

BE it enacted by the Parliament in the Seventy-fourth Year of the Republic of India as follows:—

Short title and  
commencement.

**1.** (1) This Act may be called Decriminalization of Defamation Act, 2023.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment  
of certain  
enactments.

**2.** The enactments specified in the Schedule are hereby amended to the extent and the manner mentioned in the fourth column thereof.

Savings.

**3.** This Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing.



## THE SCHEDULE

*(See Section 2)*

## Amendments

Year	No.	Short Title	Amendments
1860	45	The Indian Penal Code, 1860	Sections 499 to 502 shall be omitted.
1974	2	The Code of Criminal Procedure, 1973	Section 199 shall be omitted.

## STATEMENT OF OBJECTS AND REASONS

The Indian Penal Code, 1860 (IPC) states that defamation is a criminal offence. The law of criminal defamation is more than 160 years old and is present in our statutes without any substantial legislative change till date. It was a tool in the hands of the British to curb the liberty of a subject nation. A change in times should, ideally, lead to a change in law.

Our Constitution guarantees the right to free speech, through article 19(1)(a). This provision is a testament to our vibrant and evolving democracy. A fine balance needs to be maintained to ensure that this right is not misused to damage the reputation of a person or entity. We need to establish a fine legislative balance between free speech and the right to reputation.

The Universal Declaration of Human Rights, adopted and proclaimed by United Nations General Assembly on 10th December, 1948, guarantees the right to freedom of expression under article 19. Further, the Law Commission in its 2014 report also noted that threats of legal action with punitive damages under the laws of defamation lead to a 'chilling effect' on the publication of free and independent news articles and put undue pressure on journalists and publishing houses. Any change in the laws on defamation in India must balance these two considerations. It further noted that Media bodies such as the Editors' Guild of India have also demanded decriminalization of defamation with regard to journalists.

According to a research undertaken to study the criminal defamation judgments delivered in the High Courts in 2018, it was found that out of all the judgments delivered pertaining to section 499 of IPC, only 14.29 per cent. resulted in the defendant being found guilty of criminal defamation. In comparison, 57.14 per cent. of the judgments resulted in a dismissal.

If we look around the world, there is an emerging global trend to abolish criminal defamation. Many countries such as the United Kingdom, Sri Lanka, El Salvador and Jamaica have decriminalized defamation. United Kingdom, the country that gave us the Indian Penal Code in its original form, has repealed criminality in its defamation law in 1996 and, in its place, passed a reasonable law in the year 2013.

This Bill attempts to repeal the substantive offence of defamation and its punishments. It provides for comprehensive protection of speech and reputation as per the Constitution. It seeks to amend the Indian Penal Code, 1860 and the Code of Criminal Procedure, 1973 with an intent to bring them in line with the international jurisprudence on defamation and repeal provisions which are relics of a colonial past to ensure free flow of ideas without any fear of criminal suit.

Hence, this Bill.

RAGHAV CHADHA.

## BILL NO. CVI OF 2022

*A Bill further to amend the Constitution of India.*

BE it enacted by the Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2022.

Short title and  
commencement.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. After Part XVI of the Constitution, the following Part shall be inserted, namely:—

Insertion of  
new Part  
XVIA.

**"PART XVIA****SPECIAL PROVISIONS RELATING TO FARMERS**

**342B.** (1) There shall be a Commission for the socio-economic development of farmers to be known as the National Commission for Farmers.

National  
Commission  
for Farmers.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and three other Members and

the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President may by rule determine.

(3) The Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President by warrant under his hand and seal.

(4) The Commission shall have the power to regulate its own procedure.

(5) It shall be the duty of the Commission—

(a) to investigate and monitor all matters relating to the safeguards provided for farmers under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;

(b) to inquire into the specific complaints with respect to the deprivation of rights and safeguards of the farmers;

(c) to advise on the socio-economic development of the farmers and to evaluate the progress of their development under the Union and any State;

(d) to work out a comprehensive medium-term strategy for food and nutrition security in the country in order to move towards the goal of universal food security over time;

(e) to advise on enhancing the productivity, profitability, stability and sustainability of the major farming systems of the country based on an agro-ecological and agro-climatic approach and the harnessing of frontier technologies;

(f) to bring about synergy between technology and public policy and recommend measures for enhancing income and employment potential in rural areas through diversification, application of appropriate technology including Information Technology for information on market, weather, credit facilities and e-commerce, training and market reforms;

(g) to suggest measures to attract and retain educated youth in farming and recommend for this purpose; methods of technological upgrading of crop husbandry, horticulture, animal husbandry, fisheries (inland and marine), agro-forestry and agro-processing and associated marketing infrastructure;

(h) to recommend such measures that assure a remunerative and stable price environment for farmers including improvements in the storage and marketing infrastructure and procedures as well as adequate and appropriate support to producer organisations;

(i) to monitor the prices being realised by farmers for various agricultural commodities all over the country and forward prompt advisories to all concerned agencies or departments for effective action to be taken;

(j) to recommend to the Central Government regulation of cost of agricultural inputs including seeds, fertilisers, pesticides, electricity, diesel and farm equipment;

(k) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of the Commission; and

(l) to discharge such other functions in relation to the protection, welfare and development and advancement of the farmers as the President may, subject to the provisions of any law made by Parliament, by rule specify.

(6) The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

(7) Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.

(8) The Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5), have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing commissions for the examination of witnesses and documents; and
- (f) any other matter which the President may, by rule, determine.

(9) The Central and every State Government shall consult the Commission on all major policy matters affecting farmers".

**3.** In article 366 of the Constitution, after clause (10), the following clause shall be inserted, namely:—

Amendment  
of article 366.

"(10A) "Farmer" means a person actively engaged in the economic and/or livelihood activity of growing crops and producing other primary agricultural commodities and will include all agricultural operational holders, cultivators, agricultural labourers, sharecroppers, tenants, poultry and livestock rearers, fishers, beekeepers, gardeners, pastoralists, non-corporate planters and planting labourers, as well as persons engaged in various farming related occupations such as sericulture, vermiculture, and agro-forestry, and shall also include tribal families or persons engaged in shifting cultivation and in the collection, use and sale of minor and non-timber forest produce".

## STATEMENT OF OBJECTS AND REASONS

Agriculture plays a vital role in India's economy. According to the census of 2011, 54.6% of the population is engaged in agriculture and allied activities and it contributes 17.4% to the country's Gross Value Added. Like Indian culture, agriculture in India is highly pluralistic and multi-dimensional. India's ecological diversity, crop diversity and diet diversity are inextricably inter-connected.

2. The share of agriculture in total employment jumped to 39.4% in the year 2020-21 from 38% in 2019-20. Agriculture sector plays an important role in the livelihood of people in India, providing employment and income. This sector has also shown resilience in the face of the COVID-19 pandemic when most of the other sectors of the economy registered marginal or negative growth. The share of agriculture and allied sectors in the Gross Value Added (GVA) of the country at current prices in 2019-20 was 16.5%. Although, the growth of GVA in 2019-20 was only 2.8% as compared to 6.3% in 2016-17, it was higher than all the other sectors of the economy.

3. A National Commission on Farmers was established in the year 2004 through an executive order and was later disbanded in the year 2006. The contribution of the Commission has been immense in highlighting the issues around the agriculture industry, including those of increase in number of farmer suicide, use of sustainable and viable means of farming etc. It also gave pragmatic solutions to farmer distresses and the recommendations encompassed issues of access to resources and social security entitlements.

4. The importance of the agriculture sector is evident from the aforementioned data, therefore, it is only imperative that active measures are taken to revolutionize the sector and address the challenges faced by the industry by making the National Commission on Farmers a constitutional body. It will be entrusted with the task of highlighting and addressing the issues faced by the primary stakeholders of the sector i.e., the farmers which would ensure a holistic development of the whole sector.

Hence, this Bill.

ASHOK KUMAR MITTAL.

## FINANCIAL MEMORANDUM

Sub-clause (2) of clause 2 of the Bill, inter alia, provides that the National Commission for Farmers shall consist of a Chairperson, Vice-Chairperson and three other Members and the conditions of service and tenure of the offices of the Chairperson, Vice-Chairperson and Members so appointed shall be such as the President may, by rule determine.

2. The Bill therefore, if enacted, would involve expenditure from the Consolidated Fund of India. At this stage, it is not possible to give an exact estimate of expenditure both recurring and non-recurring, which will be involved from the Consolidated Fund of India. However, it is estimated that a recurring expenditure of about fifty crore rupees will be involved per annum from the Consolidated Fund of India.

3. A non-recurring expenditure of about ten crore rupees is also likely to be involved.

## BILL NO. CVII OF 2022

*A Bill to provide for setting up of a Shopkeepers' Welfare Fund and a Board that shall administer the Fund for the welfare of Shopkeepers and for penalizing the derogatory use of the word 'dukaandari' in order to uphold the dignity of shopkeepers and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Shopkeepers' Welfare Act, 2022.

Short title and  
commencement.

(2) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "Board" means the Shopkeepers' Welfare Board established under section 4;

(c) "Fund" means Shopkeepers' Welfare Fund set up under section 3;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "Shopkeeper" means any person who is engaged in the sale of goods either by retail or wholesale or where services are rendered to customers and includes an office, a store room, godown, warehouse or workhouse or workplace.

Shopkeepers'  
Welfare Fund.

**3.** (1) The appropriate Government shall, by notification in the Official Gazette, set up a Fund to be known as the Shopkeepers' Welfare Fund for the purpose of welfare of shopkeepers.

(2) The Fund shall consist of contributions from Central Government and the State Governments in such ratio, as may be prescribed.

Shopkeepers  
Welfare  
Board.

**4.** (1) The Fund shall be administered by a Board to be called the Shopkeepers Welfare Board, consisting of—

(a) a Chairperson to be appointment by the Central Government;

(b) one representative from each State Government as may be prescribed; and

(c) two representatives from the Retailers Association of India.

(2) The salary and allowances payable to, and other terms and conditions of the service of Chairperson and other members of the Board shall be such as may be prescribed.

Utilisation of  
the Fund.

**5.** (1) The Board shall determine the purposes for which the Fund shall be utilized.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Fund shall be utilized for the following purposes:—

(i) payment of old-age pension at the rate of ten thousand rupees per month after the shopkeeper has attained the age of sixty years and is incapable of performing his job on account of physical illness, infirmity or incapacity;

(ii) free healthcare facilities for the shopkeepers and their dependent family members at the designated Government and other hospitals;

(iii) free insurance cover to shopkeepers; and

(iv) free housing facilities for shopkeepers.

(3) The Board shall have such number of employees and such number of offices in the country, as may be prescribed.

(4) The terms and conditions of service of employees of the Board shall be such, as may be prescribed.

Punishment  
and penalties.

**6.** Whoever intentionally insults or intimidates with an intent to humiliate a shopkeeper in any place within public view through the use of the word "Dukaandari" in a derogatory manner or in a manner wherein it is used to draw a comparison with malpractices done by organisations or individuals or services or activity shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to one year and with fine, or both.

Central  
Government  
to provide  
funds.

**7.** (1) The Central Government shall, after due appropriation made by the Parliament by law in this behalf, provide funds for the effective implementation of the provisions of this Act.

(2) The appropriate Government shall, after due appropriation made by the Parliament or the Legislature of a State, as the case may be, provide adequate fund to the Board.



8. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force providing for matters dealt with in this Act.

Act not to be in derogation of other law.

9. (1) The appropriate Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

Power to make rules.

(2) Every rule made under this section by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be;

So, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(3) Every rule made by the State Government under this section shall be laid as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House before that House.

## STATEMENT OF OBJECTS AND REASONS

A retail merchant or tradesman who owns or operates a small store or shop is referred to as a shopkeeper. In India, there are more than seventy million small merchants who collectively control almost ninety per cent. of India's retail trade. The small trader or shopkeeper has had a significant impact on the Indian economy because it is the direct point of contact between buyer and seller and can be found anywhere. In 2020, the retail market size in India was 883 billion US dollars, which in the year 2018, was around 950 billion US dollars. Due to pandemic, there is a slight shift in the retail market size. Nevertheless, the market is growing with time and is expected to reach as high as 1750 billion US dollars by the year 2026. The major contributor of retail market in India is the shopkeeper, who can be found at each turn of the society. Due to the variety of the products which these shops sell, it is estimated that the contribution of these shops account for 75 to 78 per cent. of the consumer goods market.

2. However, during the time of pandemic, the shopkeepers had to face challenges ranging from shortage of labour to shortage of supply. Not only that due to shortage of supply and strict lockdown, some small shopkeepers faced financial crunch which severely affected their savings. The supply chain and distribution mechanisms of Fast Moving Consumer Goods (FMCG) companies and distributors are paralysed, but there is definitely a lag due to shortage of manpower. Reverse migration of labourers has led to a 15 to 20 per cent. shortage of manpower, resulting in delays in products reaching the stores.

3. When the economic and physical lockdown happened, the street corner shopkeepers had to shut down their shops within a matter of few hours. Thus, they were in for an abrupt closure. Shopkeepers also did not have any idea as to when their shops would reopen as the lockdown period was extended in phases. The shopkeepers like small business owners had to figure out how to initiate business in the short to medium term. This uncertainty to a great extent affects the profit of shopkeepers.

4. Furthermore, there have been instances where shopkeepers have been treated disrespectfully and have been demeaned by the buyers. There have been instances of the word dukandaari being used as an accusation or insult. Such usage is derogatory to the shopkeepers' community which is an important cog in the wheels of the economy. However, the law does not permit such behaviour against any person, and the shopkeeper has the same right. Thus, shopkeepers have the right to be treated with utmost dignity and respect.

5. Keeping in mind, the difficulties faced by the shopkeepers during the pandemic and in general, this Act provides for the establishment of a welfare fund for shopkeepers, which can be used as specified in the provisions of Act. It also stated that the members of the Welfare Board shall be held responsible for the proper execution of funds. This Act also provides for the punishment of anyone who attempts to use the word "Dukaandari" in a derogatory manner. Thus, in a nutshell, this Act provides shopkeepers with a sense of security in times of need.

Hence, this Bill.

ASHOK KUMAR MITTAL.

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FINANCIAL MEMORANDUM

Clause 3 provides for setting up of a Shopkeepers' Welfare Fund for welfare of shopkeepers. Clause 4 provides for constitution of a Board for administration of the Shopkeepers Welfare Fund. Clause 7 provides that the Central Government shall provide adequate Funds to the Board for effective implementation of the provisions of the Bill. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India.

2. It is estimated that a sum of three hundred crore rupees is likely to be involved out of the Consolidated Fund of India per annum.

3. A non-recurring expenditure of two hundred crore rupees is also likely to be involved.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL No. XCVII OF 2022

*A Bill to provide for the protection of distressed Khadi Spinners, Weavers and Khadi establishments who are debt ridden, exploited and are committing suicide and for introduction of welfare measures like life insurance coverage, interest free working capital and consumption loan, healthcare, education to the children, availability of affordable raw material, modernization of looms, housing and compulsory purchase of Khadi cloth by Government and for the establishment of an authority and a welfare fund and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

Short title and  
commencement.

**1.** (1) The Khadi Spinners, Weavers and Khadi Institutions Protection and Welfare Act, 2022.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires:—

Definitions.

(a) “appropriate Government” means in the case of a State, the Government of that State and in other cases the Central Government;

(b) “Authority” means the National Khadi Spinners, Weavers and Khadi Establishments Welfare Authority established under section 3;

(c) “Fund” means the Khadi Spinners and Weavers Welfare Fund established under section 5;

(d) “Khadi” means any handspun and handwoven fabric using charkha and loom for production of cloth other than handloom and powerloom, as defined in clause (g) of section 2 of the Factories Act, 1948;

(e) “prescribed” means prescribed by rules made under this Act;

(f) “spinner” means a person engaged in the production of handspun yarn to be used for weaving handwoven cloth on a loom and includes a person who owns, works or operates on a loom for the production of cloth;

(g) “weaver” means a person engaged in the production of handspun yarn which is woven on a loom and includes a person who owns, works or operates on a loom for the production of cloth;

(h) “worker” means a person engaged in spinning and weaving, whether male or female, engaged by khadi establishment and who earns wages on daily or any other basis by working on charkha and loom respectively.

3. (1) The Central Government shall, as soon as may be, by notification in the Official Gazette, establish an Authority to be called the National Khadi Spinners, Weavers and Khadi Establishments Welfare Authority for the purposes of this Act.

National  
Khadi  
Spinners,  
Weavers and  
Khadi  
Establishments  
Welfare  
Authority.

(2) The headquarter of the Authority shall be at Mumbai where the Khadi Village Industries Commission is also headquartered and the Authority may establish offices at such other places in the country, as it may deem necessary for carrying out the purposes of this Act.

(3) The Authority shall consist of the following members, who shall be appointed by the Central Government, namely:—

(a) a Chairperson having adequate knowledge and professional experience in khadi sector;

(b) a Deputy chairperson with such qualification, as may be prescribed;

(c) five members of Parliament of whom three shall be from Lok Sabha and two from Rajya Sabha to be nominated by the respective Presiding Officers of the two Houses;

(d) three members to represent khadi institutions or cooperatives;

(e) three members to represent the khadi spinners;

(f) three members to represent the khadi weavers;

(g) four members to represent each of the Union Ministries of finance, Planning, Labour & Employment and Textiles;

(h) four members to be nominated by the Government of the States to be rotated amongst them in alphabetical order.

(4) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and common seal, with the power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

(5) The term of office of the Chairperson, Deputy Chairperson and members of the Authority and the procedure to be followed in the discharge of the functions of the Authority shall be such as may be prescribed.

(6) The Authority shall have a secretariat with such officers and members of staff and with such terms and conditions of services as may be prescribed from time to time.

Functions of  
the Authority.

4. (1) Subject to any guidelines issued by the Central Government under the provisions of this Act, the Authority shall perform and undertake such special steps in close coordination with the Governments of the States for the overall welfare, removal of poverty and indebtedness, raising the standard of living, modernize the looms and ensuring easy availability of raw materials at affordable prices and marketing of khadi cloth of and for the khadi spinners;

(2) Without prejudice to generality of the foregoing provisions, the authority shall,—

(a) formulate welfare policy for the khadi spinners, weavers and workers;

(b) maintain records of *charkha* and *kharga* existing in all the villages, districts and other places throughout the country;

(c) maintain a district-wise register of khadi spinners, weavers and local khadi establishments with such particulars and in such manner as may be prescribed;

(d) regulate the service conditions of workers in such manner as may be prescribed;

(e) fix minimum wages for khadi spinners, weavers and workers from time to time;

(f) ensure modernization of all the old looms;

(g) encourage and provide all necessary assistance to khadi spinners, weavers and khadi establishments or cooperatives and for their democratic functioning;

(h) organise exhibitions, *melas* and set up an institution exclusively to educate the people about the potential of khadi in generation of employment and solving the unemployment problem and such other activities to promote khadi sector in different parts of the country;

(i) make suitable arrangements for purchase of khadi cloth by the Government agencies on cash and carry basis;

(j) encourage export of khadi cloth and khadi garments from the country in a big way;

(k) perform such other functions as may be assigned to it by the appropriate Government from time to time.

Establishment  
of Khadi  
Spinners,  
Weavers and  
Khadi  
Establishments  
Welfare Fund.

5. (1) The Central Government shall, as soon as may be, but within one year of the commencement of this Act, by notification in the Official Gazette, establish a fund to be called the Khadi Spinners, Weavers and Khadi Establishments Welfare Fund with a corpus of five thousand crore rupees and thereafter shall contribute to the fund from time to time after due appropriation made by Parliament by law in this behalf along with the Government of the States in such ratio as may be prescribed.

(2) There shall also be credited to the fund such other sums as may be received by way of donations, contributions, assistance or otherwise from individuals, spinners, weavers, workers, khadi establishments, body corporates, financial institutions firms, partnerships, etc.

(3) The fund shall be managed by a Board of Trustees, which shall be constituted by the Central Government in such manner as may be prescribed.

(4) The fund shall be spent on,—

(a) providing interest free consumption loans to khadi spinners, weavers and khadi establishments from time to time;

(b) making ex-gratia payments at prescribed rates to each of the bereaved families of spinners and weavers who die prematurely;

(c) providing loans at nominal interest for purchasing cotton yarn and other necessary raw materials to the khadi spinners, weavers and khadi establishments and workers;

(d) insuring all *charkha*, *khargas*, khadi spinners, weavers and khadi establishments and workers;

(e) providing healthcare facilities, maternity and such other facilities to the khadi spinners, weavers and khadi establishments and workers;

(f) providing educational facilities and vocational training to the wards of weavers and workers;

(g) such other welfare measures as may be prescribed.

**6. (1)** It shall be the duty of the Central Government to ensure regular supply of yarn to the khadi spinners, weavers and khadi establishments at affordable and subsidized rates throughout the country.

Role of Central Government and other Ministries.

(2) The appropriate Government, all its Ministries, Departments, subordinate Offices, Public Sector Enterprises shall purchase their entire cloth requirements for dusters, curtains, table cloth and such other things exclusively from the primary khadi spinners, weavers and khadi establishments and not from the mills and power loom sectors.

**7.** The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the authority in each financial year such sums as may be considered necessary and adequate for the performance of the functions of the Authority under this Act.

Central Government to provide funds.

**8.** The Authority shall prepare once in every calendar year in such form and at such time as may be prescribed an annual report giving a true and full account of its activities during the previous year and copies thereof shall be forwarded to the President of India, who shall cause, the same to be laid before both the Houses of Parliament.

Annual Report.

**9. (1)** If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be, after it is made, be laid before both the Houses of Parliament.

**10.** The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act.

Act to supplement other laws.

**11.** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

## STATEMENT OF OBJECTS AND REASONS

Khadi fabric has the potential to generate many times more employment as compared to mill made fabric. All over the country, in thousands of Khadi untis, lakhs of spinners and weavers and workers weave cloth on the *charkha* and *kharga* or looms to earn their livelihood. For most of the spinners and weavers, it has been their family profession which has passed on from one generation to the other. Until a few years back, entire families used to be involved in this profession such as dyeing, bleaching, embroidery, printing, etc. For them, this is the only source of their livelihood. Pure khadi cloth is popular among the people not only in the country but world over, and is in great demand, in the fashion world also, it is very popular.

But unfortunately, khadi sector is not doing well and it is at the verge of collapse and extinction. The most important reason for this is non-availability of raw materials at affordable prices. Raw material rate of the Government owned Central Public Sector Enterprises are higher than the market rate. Apart from the over regulated system that hurt the khadi establishments and the raw material becoming costly, spurious khadi which are either not made out of handspun thread or is not hand woven (power loom made) enter the market. This has resulted in institutions producing genuine khadi not being able to withstand competition from private traders who trade cheaper quality powerloom cloth. Hence, thousands of genuine khadi units in many parts of the country have closed down.

The cotton bales and tapes which are the principal raw material supplied by the Government sliver plants in the country to the khadi establishment is used to produce handspun yarn by the spinners (*kathin*) and this handspun yarn in turn becomes the raw material for handwoven fabric called khadi. As on date, in majority of the areas in the country, spinners on an average do not earn even two thousand rupees per month which means their income is less than on hundred rupees per day. In many places, if at all, they get work for a maximum of 150 days or 200 days in a year. Same is the case with majority of the Khadi weavers who are not able to earn an average of even four thousand rupees per month, which is less than two hundred and fifty rupees per day which is much less than the income of a manual labourer. This is because they do not understand the fact that khadi is called khadi only because it is handspun and hand woven. If khadi spinners and weavers become extinct, handspun and hand woven fabric will not be available in the market. Unemployment is the mother of most problems in the country and the world. Lakhs of people who were hitherto weavers have quit weaving because of the above reasons and have migrated to far off places in search of manual work. Overwhelming majority of the people in the civil society do not know the employment generation potential of khadi. Whenever these things are discussed with the civil society people they become passionate about it and commit themselves to the cause. Multifold employment opportunities in khadi sector can be generated only if people ask for and buy pure khadi. At present, whatever welfare schemes exist are either not reasonable and not available timely to the spinners and weavers. In the absence of service conditions, spinners and weavers who have worked all their life in the Khadi sector get frustrated in old age. In view of this situation, new people hesitate to join this work. Overwhelming majority of khadi spinners and weavers them are in debt and many have reported to have committed suicide.

Hence, this Bill.

ANEEL PRASAD HEGDE.



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FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to establish the National Khadi Spinners, Weavers and Khadi Establishment Welfare Authority and to have a Secretariat with officers and members of staff. Clause 5 provides for the establishment of Khadi Spinners, Weavers and Khadi Establishment Welfare Fund. Clause 6 *inter alia* provides that the Central Government should ensure regular supply of yarns to khadi spinners, weavers and establishments at subsidized rates. Clause 7 provides that the Central Government shall provide appropriate funds to the Authority for performing its functions.

The Bill, if enacted and brought into force, will involve an expenditure from the Consolidated Fund of India. It is estimated that a sum of five thousand crore rupees per annum may be involved as recurring expenditure.

A non-recurring expenditure of two hundred crore rupees is also likely to be incurred.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of this Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules relate to matters of details only, the delegation of legislative powers is of normal character.

## BILL NO. XX OF 2023

*A Bill to provide for sustainable agriculture by banning the use of harmful chemicals in farming and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

Short title and commencement. **1.** (1) This Act may be called the Sustainable Agriculture (Ban on Harmful Chemicals) Act, 2023.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2.** The Central Government shall, within a period of one year from the date of coming into force of this Act, take such comprehensive measures for taking India on the path of sustainable agriculture by permanently banning the use of harmful agriculture chemicals including pesticides, herbicides, weedicides and other formulations specified in the Schedule to this Act in farming and such other practices in such manner as may be prescribed by rules made under this Act.

Sustainable agriculture by banning the use of harmful chemicals in farming practices.

**3.** The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.

Act not in derogation of any other law for the time being in force.

**4. (1)** The Central Government may by notification in the Official Gazette make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## THE SCHEDULE

*[See section 2]*

- |  |                                |
|--|--------------------------------|
| 1. 2, 4-Dichlorophenoxyacetic Acid             | 33. Iprodione                  |
| 2. Acephate                                    | 34. Kasugamycin                |
| 3. Aluminium Phosphide                         | 35. Lindane (Gamma HCH)        |
| 4. Atrazine                                    | 36. Linuron                    |
| 5. Benfuracarb                                 | 37. Malathion                  |
| 6. Bifenthrin                                  | 38. Mancozeb                   |
| 7. Butachlor                                   | 39. Mepiquat Chloride          |
| 8. Captafol                                    | 40. Metaldehyde                |
| 9. Captan                                      | 41. Methomyl                   |
| 10. Carbendazim                                | 42. Methyl Bromide             |
| 11. Carbofuron                                 | 43. Monocrotophos              |
| 12. Carbosulfan                                | 44. Nickel Chloride            |
| 13. Chlorefenapyr                              | 45. Oxyfluorfen                |
| 14. Chlorothalonil                             | 46. Paradichlorobenzene (PDCB) |
| 15. Chlorpyrifos                               | 47. Paraquat Dichloride        |
| 16. Cypermethrin                               | 48. Pendimethalin              |
| 17. Dalapon                                    | 49. Phosphamidon               |
| 18. Deltamethrin                               | 50. Pretilachlor               |
| 19. Dezomet                                    | 51. Profenophos                |
| 20. Dichloro Diphenyl<br>Trichloroethane (DDT) | 52. Propargite                 |
| 21. Dicofol                                    | 53. Propineb                   |
| 22. Diflubenzuron                              | 54. Quinolphos                 |
| 23. Dimethoate                                 | 55. Simazine                   |
| 24. Dinocap                                    | 56. Sulfosulfurone             |
| 25. Diuron                                     | 57. Thiodicarb                 |
| 26. Etofenprox                                 | 58. Thiophanate Methyl         |
| 27. Fenitrothion                               | 59. Thiram                     |
| 28. Fenpropathrin                              | 60. Triazophos                 |
| 29. Ferbam                                     | 61. Warfarin                   |
| 30. Formothion                                 | 62. Zinc Phosphate             |
| 31. Glyphosate                                 | 63. Zineb                      |
| 32. Glufosinate                                | 64. Ziram                      |

## STATEMENT OF OBJECTS AND REASONS

The problem of pests, insects, weeds, plant pathogens in agriculture, which has resulted in the decline of production of various crops and sometime even destruction of the entire crop, has been addressed, to a great extent, by the use of chemical pesticides, insecticides, fungicides and weedicides. However, the use of these agricultural chemicals has a detrimental effect on non-targeted organisms and humans, including the environment. This threat to humans, environment and non-targeted species by the use of these agricultural chemicals needs our serious attentions because the harmful effects of these chemicals come to the fore after a time lag which may be a few years or even longer.

A number of studies found that those who work closely with pesticides (such as farmers, farm labourers, pesticide applicators) suffer an increased risk of a variety of diseases relating to the neurological, behavioural, reproductive and developmental system due to prolonged exposure to chemical pesticides. These illnesses include leukaemia, lung cancer and non-Hodgkin's Lymphoma besides obesity, diabetes, Alzheimer's dementia, Parkinson's, asthma, chronic bronchitis, autism, hormonal dysfunction and psychological disorders. As a direct result, 20,000 people die of pesticide poisoning annually in India. Even those who are not directly involved in the agricultural industry are exposed to dangerous pesticides through run-off that contaminates water sources, including drinking water. Further, the use of these chemicals and exposure to them may also stunt the mental and physical health of children thereby affecting the future generations of the country even before they are born.

Some of these agrichemicals like glyphosate and glufosinate are quite deadly and are capable of triggering a number of acute and chronic health issues in human beings and animals. Evidence suggests decrease of male fertility and, in particular, of sperm quality upon exposure. Risk of cancer, adverse effects on reproduction and development are the major concerns based on the evidence from animal studies.

India needs to have a clear roadmap for sustainable agriculture, and in order to achieve this, there is an urgent necessity to permanently ban the use of such agricultural chemicals (pesticides, insecticides, fungicides and weedicides) which are severely harmful to humans, environment and other species. Moreover, the permanent ban on these agrochemicals will open up more avenues for export of chemical free agricultural produce to countries where these chemicals are already banned.

It is also important to highlight here that many harmful chemical pesticides, insecticides, fungicides and weedicides, which have been banned internationally, are not banned in India. In view of the fact stated above and in order to make our agriculture completely organic and sustainable, this Bill seeks to permanently ban the use of these harmful agricultural chemicals in India's farms and farming.

Hence, this Bill.

ANEEL PRASAD HEGDE.

## MEMORANDUM OF DELEGATED LEGISLATION

Clause 4 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of details only, the delegation of legislative power is of normal character.

## BILL NO. CVIII OF 2022

*A Bill further to amend the Motor Vehicles Act, 1988*

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

Short title and  
commencement.

1. (1) This Act may be called the Motor Vehicles (Amendment) Act, 2022.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Amendment of  
section 12.

2. In the Motor Vehicles Act, 1988 (hereinafter referred to as the principal Act), in section 13—

(i) in sub section (5), the following proviso shall be inserted, namely: —

"Provided that the license authority, after physical test in the testing yard shall issue the licence after successful trial only "; and

- (ii) in sub-section (6), for the words "Central Government", the words "State Government" shall be substituted.
- 3.** In section 40 of the principal Act, for the words "any registering authority in the state", the words "a registering authority" shall be substituted. Amendment of section 40.
- 4.** In section 44 of the principal Act, in sub-section (1), for the words "shall not require production", the words "shall be required to be produced" shall be substituted. Amendment of section 44.
- 5.** In section 56 of the principal Act, in sub-section (1), after the words "testing station mentioned in sub-section (2)" the words "and certified by transport authorities" shall be inserted. Amendment of section 56.
- 6.** In section 59 of the principal Act, in sub-section (4), after the words "exceeded their life", the words "or if found not road worthy by the prescribed authorities" shall be inserted. Amendment of section 59.
- 7.** In section 66 of the principal Act, in sub-section (1), in the fourth proviso, the words "at the discretion of the vehicle owner" shall be omitted. Amendment of section 66.
- 8.** In section 66A of the principal Act,—  
 (i) in clause (vii) the word "competition" shall be omitted; and  
 (ii) in clause (viii), the words "while seeking to enhance private participation and public-private partnership in the transport sector" shall be omitted. Amendment of section 66A.
- 9.** In section 67 of the principal Act,—  
 (i) in sub-section (1), clause (d) be omitted;  
 (ii) in sub-section (2), the proviso shall be omitted; and  
 (iii) in sub-section (3), clauses (g) and (m) shall be omitted. Amendment of section 67.
- 10.** In section 72 of the principal Act, in sub-section (2), the proviso shall be omitted. Amendment of section 72.
- 11.** In section 74 of the principal Act,—  
 (i) in sub-section (2), the proviso shall be omitted; and  
 (ii) in sub-section (3), in the proviso to clause (b), the sub-clause (vii), shall be omitted. Amendment of section 74.
- 12.** In section 88A of the principal Act,—  
 (i) in the marginal heading, for the words "Central Government", the words "State Government" shall be substituted;  
 (ii) in sub-section (1),—  
 (a) for the words "Central Government", the words "State Government" shall be substituted;  
 (b) clause (e) shall be omitted;  
 (c) in clause (k), for the words "Central Government", the words "State Government" shall be substituted. Amendment of section 88A.
- 13.** In section 93 of the principal Act,—  
 (i) in the marginal heading, the words "or aggregator" shall be omitted;  
 (ii) in sub-section (1), clause (iii) shall be omitted; and  
 (iii) in sub-section (1), the proviso shall be omitted. Amendment of section 93.
- 14.** In Section 96 of the principal Act, in sub-section (2), clauses (xxxiia) and (xxxiib) shall be omitted. Amendment of section 96.

Amendment of section 114.	<b>15.</b> In section 114 of the principal Act, in sub-section (1), the words "or any other person authorised in this behalf by the State Government" shall be omitted.
Amendment of section 117.	<b>16.</b> In section 117 of the principal Act, in the second proviso, the words "or any other agency authorised by the Central Government" shall be omitted.
Amendment of section 161.	<b>17.</b> In section 161 of the principal Act, in sub-section (2),— (i) in clause (a), for the words "a fixed sum", the words "an interim relief" shall be substituted; and (ii) in clause (b), for the words "a fixed sum", the words "an interim relief" shall be substituted.
Amendment of section 163.	<b>18.</b> In section 163 of the principal Act, — (i) in sub-section (1), for the words "shall be refunded to the insurer", the words "shall be adjusted against the amount awarded by a Claims Tribunal" shall be substituted; and (ii) sub-section (2) shall be omitted.
Amendment of section 166.	<b>19.</b> In section 166 of the principal Act, in sub-section (1), the second proviso shall be omitted.
Amendment of section 173.	<b>20.</b> In section 173 of the principal Act, in sub-section (2), for the words "one lakh", the words "ten thousand" shall be substituted.
Amendment of section 177.	<b>21.</b> In section 177 of the principal Act, for the words "five hundred rupees" and "one thousand and five hundred rupees", the words "one hundred rupees" and "three hundred rupees" respectively shall be substituted.
Omission of section 177A.	<b>22.</b> Section 177A of the principal Act shall be omitted.
Amendment of section 178.	<b>23.</b> In section 178 of the principal Act, in sub-section (3), in clause (b), for the words "five hundred rupees", the words "two hundred rupees" shall be substituted.
Amendment of section 179.	<b>24.</b> In section 179 of the principal Act,— (i) in sub-section (1), for the words "two thousand rupees", the words "five hundred rupees" shall be substituted; and (ii) in sub-section (2), for the words "two thousand rupees", the words "five hundred rupees" shall be substituted.
Amendment of section 180.	<b>25.</b> In section 180 of the principal Act, for the words "of five thousand rupees", the words "which may extend to one thousand rupees" shall be substituted.
Amendment of section 181.	<b>26.</b> In section 181 of the principal Act, for the words "of five thousand rupees", the words "which may extend to five hundred rupees" shall be substituted.
Amendment of section 182.	<b>27.</b> In section 182 of the principal Act,— (i) in sub-section (1), for the words "of ten thousand rupees", the words "which may extend to five hundred rupees" shall be substituted; and (ii) in sub-section (2), for the words "ten thousand rupees", the words "one hundred rupees" shall be substituted.
Omission of section 182A.	<b>28.</b> In section 182A of the principal Act shall be omitted.
Omission of section 182B.	<b>29.</b> Section 182B of the principal Act shall be omitted.



**30.** In section 183 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment of section 183.

"(1) Whoever, drives or causes any person who is employed by him or subjects someone under his control to drive a motor vehicle in contravention of the speed limits referred to in section 112 shall be punishable with fine which may extend to four hundred rupees, or, if having been previously convicted of an offence under this sub-section is again convicted of an offence under this sub-section, with fine which may extend to one thousand rupees".

**31.** In section 184 of the principal Act,—

Amendment of section 184.

(i) for the words "which may extend to one year but shall not be less than six months or with fine which shall not be less than one thousand rupees but may extend to five thousand rupees, or with both", the words "which may extend to six months or with fine which may extend to one thousand rupees" shall be substituted; and

(ii) for the words "of ten thousand rupees", the words "which may extend to two thousand rupees" shall be substituted.

**32.** In section 185 of the principal Act,—

Amendment of section 185.

(i) for the words "of ten thousand rupees", the words "which may extend to two thousand rupees" shall be substituted;

(ii) after the words "and for a second or subsequent offence," the words "if committed within three years of the commission of the previous similar offence," shall be inserted; and

(iii) for the words "of fifteen thousand rupees", the words "which may extend to three thousand rupees" shall be substituted.

**33.** In section 186 of the principal Act, for the words "one thousand rupees" and "two thousand rupees", the words "two hundred rupees" and "five hundred rupees" respectively shall be substituted.

Amendment of section 186.

**34.** In section 187 of the principal Act, —

Amendment of section 187.

(i) for the words "six months, or with fine of five thousand rupees", the words "three months, or with fine which may extend to five hundred rupees" shall be substituted; and

(ii) for the words "one year, or with fine of ten thousand rupees", the words "six months, or with fine which may extend to one thousand rupees" shall be substituted.

**35.** In section 189 of the principal Act, for the words "three months, or with fine of five thousand rupees", the words "six months, or with fine which may extend to five hundred rupees" shall be substituted.

Amendment of section 189.

**36.** In section 190 of the principal Act, —

Amendment of section 190.

(i) in sub-section (1),—

(a) for the words "of one thousand five hundred rupees", the words "of two hundred and fifty rupees" shall be substituted; and

(b) for the words "of five thousand rupees", the words "which may extend to one thousand rupees" shall be substituted;

(ii) in sub-section (2), for the words "imprisonment for a term which may extend to three months, or with fine which may extend to ten thousand rupees or with both and he shall be disqualified for holding licence for a period of three months", the words "a fine of one thousand rupees" shall be substituted;

(iii) in sub-section (3),—

(a) for the words "with a fine of ten thousand rupees and he shall be disqualified for holding licence for a period of three months", the words "which may extend to three thousand rupees," shall be substituted; and

(b) for the words "of twenty thousand rupees", the words "five thousand rupees" shall be substituted.

Amendment of  
section 192A.

**37.** In section 192A of the principal Act, in sub-section (1), for the words "imprisonment for a term which may extend to six months and a fine of ten thousand rupees and for any subsequent offence with imprisonment which may extend to one year but shall not be less than six months or with fine of ten thousand rupees or with both:", the words "a fine which may extend to five thousand rupees but shall not be less than two thousand rupees and for any subsequent offence with imprisonment which may extend to one year but shall not be less than three months or with fine which may extend to ten thousand rupees but shall not be less than five thousand rupees or with both:" be shall substituted.

Amendment of  
section 194.

**38.** In section 194 of the principal Act,—

(i) in sub-section (1), for the words "fine of twenty thousand rupees and an additional amount of two thousand rupees", the words "minimum fine of two thousand rupees and an additional amount of one thousand rupees" shall be substituted.

(ii) sub-section (1A) shall be omitted; and

(iii) in sub-section (2), for the words "of forty thousand rupees", the words "which may extend to three thousand rupees" shall be substituted.

Amendment of  
section 200.

**39.** In section 200 of the principal Act:—

(i) in sub-section (1), —

(a) for the words, figures and brackets "punishable under section 177, section 178, section 179, section 180, section 181, section 182, sub-section (1) or sub-section (3) or sub-section (4) of section 182A, section 182B, sub-section (1) or sub-section (2) of section 183, section 184 only to the extent of use of handheld communication devices, section 186, section 189, sub-section (2) of section 190, section 192, section 192A, section 194, section 194A, section 194B, section 194C, section 194D, section 194E, section 194F, section 196, section 198," the words, brackets, figures and letters "punishable under section 177, section 178, section 179, section 180, section 181, section 182, sub-section (1) or sub-section (2) of section 183, section 184, section 186, section 189, sub-section (2) of section 190, section 192, section 194, section 196, or section 198," shall be substituted;

(b) the proviso shall be omitted; and

(ii) in sub-section (2), the provisos shall be omitted.

Amendment of  
section 206.

**40.** In section 206 of the principal Act, sub-section (4) shall be omitted.

Omission of  
section 210A.

**41.** Section 210A of the principal Act, shall be omitted.

Omission of  
section 215A.

**42.** Section 215A of the principal Act, shall be omitted.

## STATEMENT OF OBJECTS AND REASONS

Transport Industry is the life line of the economy. Such a vital segment of the economy is now thrown into serious crisis. Lakhs of lorries have been seized by the private finance companies for default of payment of EMIs. The fate of the auto rickshaw and taxi drivers is also the same. All the State Transport Undertakings in the country are in severe financial crisis and not able to replace the old aged vehicles and augment the increasing needs of the public. This has added burden on the people, particularly the poor and unorganised workers. The COVID-19 pandemic has added fuel to the crisis. Even the individual vehicle owners are afraid of the unbearable penalties to take out their vehicles. The victims of the motor vehicle accidents are in peril like condition due to the compensation cap in the existing Act. In such a situation in the interest of the country and the people at large, it is imperative further to amend the Motor Vehicles Act, 1988.

Hence, this Bill.

ELAMARAM KAREEM.

## BILL NO. CXI OF 2022

*A Bill further to amend the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.*

BE it enacted by the Parliament in the Seventy-third Year of the Republic of India as follows:—

Short title and  
commencement.

**1.** (1) This Act may be called the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Amendment Act, 2022.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

General.

**2.** In the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereinafter referred to as the principal Act),—

14 of 2013.

(a) for the words "District Officer ", wherever they occur in the principal Act, the words "District Judge", shall be substituted;

(b) for the words "Local Complaints Committee" or "Local Committee", wherever they occur in the principal Act, the words "Employment Tribunal", shall be substituted.

3. For section 6 of the principal Act, the following new section shall be substituted, namely:—

Substitution of Section 6.

"6. (1) Every District Judge shall constitute in the district concerned, a tribunal to be known as the "Employment Tribunal" to receive complaints of sexual harassment from establishments where Internal Committee has not been constituted or the Internal Committee or aggrieved person directly and such complaints would be considered as legal trials.

Constitution and jurisdiction of the Employment Tribunal.

(2) Every District Judge shall designate one nodal officer in every block, taluka and tehsil in rural or tribal area to receive complaints and forward the same to the concerned Employment Tribunal within a period of seven days.

(3) The jurisdiction of the Employment Tribunal shall extend to the areas of the district where it is constituted."

4. For section 7 of the principal Act, the following new section shall be substituted, namely:—

Substitution of Section 7.

"7. (1) The Employment Tribunal shall consist of the following members to be nominated by the collegium of the concerned District Court in a manner as may be prescribed, namely:—

Composition, tenure and other terms and conditions of the Employment Tribunal.

(a) a Chairperson to be nominated from amongst the retired female judges of the District Court;

(b) One retired judge to be nominated from amongst the retired judges of District Court;

(c) one member to be nominated from amongst the eminent social activists in the field of gender-based discrimination;

(d) one member to be nominated from amongst the women working in block, taluka or tehsil in the district;

(e) two members of whom at least one shall be a woman to be nominated from amongst eminent sociologists:

Provided that at least one of the nominees should, preferably, have a background in law or legal knowledge:

Provided further that at least one of the nominees shall belong to the Scheduled Castes or the Scheduled Tribes or the Other Backward Classes or any minority community notified by the Central Government, from time to time;

(f) one member to be nominated from amongst the female advocates of the District Court.

(2) The Chairperson and every Member of the Employment Tribunal shall hold office for such period, not exceeding three years, from the date of their appointment as may be specified by the District Judge.

(3) Where the Chairperson or any Member of the Employment Tribunal,—

(a) contravenes the provisions of section 16; or

(b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or

(c) has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or

(d) has so abused his position as to render his continuance in office prejudicial to the public interest;

such Chairperson or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.

(4) The Chairperson or Members of the Employment Tribunal other than the Members nominated under; clauses (c) and (d) of sub-section (1) shall be entitled to such fees or allowances for holding the proceedings of the Employment Tribunal as may be prescribed."

Amendment  
of Section 9.

**5.** In section 9 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the Internal Committee if so constituted, or the Employment Tribunal, within a reasonable period of time with regard to the facts and circumstances surrounding the making of such a complaint and the personal circumstances of the complainant, to be determined by the Tribunal:

Provided further that the Internal Committee or the Employment Tribunal as the case may be, may, for the reasons to be recorded in writing, extend the time limit based on the discretion of the Employment Tribunal, if it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period."

Amendment  
of Section 13.

**6.** In section 13 of the principal Act,—

(i) in sub-section (3), for the words "recommend to", the word "direct" shall be substituted;

(ii) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) The employer or the District Judge shall act upon the directions of the Employment Tribunal within sixty days of its receipt."

Amendment  
of Section 14.

**7.** In section 14 of the principal Act, in sub-sections (1) and (2), for the words "recommend to", the word "direct" shall be substituted.

Amendment  
of Section 20.

**8.** In section 20 of the principal Act, for the words "Local Committee", the words "Employment Tribunal and Internal Committee" shall be substituted.

## STATEMENT OF OBJECTS AND REASONS

Every incident of Sexual Harassment against women at workplace is an infringement of the fundamental rights ensured by the Constitution of India. It is an extension of violence experienced by women in everyday life that not only violates their right to equality and freedom but also contravenes their right to live with dignity and equal opportunity for livelihood as guaranteed by article 21 of the Constitution. According to the "Crime in India report 2021" of the National Crime Records Bureau, 7797 working women in India experienced some form of harassment at their places of work and such reports have intensified after the reopening of workplaces in the post pandemic period. With the evolving times, as the role of women is extending to the professional world they are becoming more vulnerable to the offence of sexual harassment at workplace. Further, the ground reality highlighted by various subject matter experts suggest that these numbers are highly underreported as many women fear the loss of their personal and professional dignity and source of income, owing to the social stigma.

Presently, the Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act, 2013 mandates the creation of Internal Committee (ICC) in every workplace, with ten or more employees, and Local Complaint Committee (LCC) at district level to receive and adjudicate the complaints of the aggrieved woman against sexual harassment. While the existing law has provided a platform for women to voice this crime against them and punish the offenders, the high rate of pending cases, under Section 509 of the Indian Penal Code, 1860, highlighted by the "Crime in India report of 2021", questions the efficacy of the current ecosystem in place. Additionally, the J.S. Verma Committee constituted to recommend amendments to the Criminal Laws in 2012, addressed that the constitution of ICC and LCC is counter-productive to the ends of the act as the inhouse redressal of grievances would discourage women from filing complaints and "may promote a culture of suppression of legitimate complaints." Another limitation highlighted by the Committee is the fixed time period of three months to make a complaint contained in Section 9 (1) of the Act. This may prevent women from filing complaints about the repeated instances of harassment or filing complaints after three months of incident.

The instant Bill accordingly, proposes amendments to the Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act, 2013, to nullify the roles and powers of the Local Complaint Committee by mandating constitution of the Employment Tribunal. The Employment Tribunal shall hold the power to treat the cases of sexual harassment as thorough legal cases which would give more cognizance to the cases of sexual harassment and improve the efficiency in resolving the cases and increase the rate of conviction.

The Bill further seeks to extend the time period where aggrieved women can file or report the complaint of sexual harassment. Thus, the proposed amendments address the need for many organizations or workplaces to make grievance redressal systems more effective in order to create a safer workplace environment for women.

Hence, this Bill.

FAUZIA KHAN.

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for constitution of a tribunal to be known as the "Employment Tribunal" by the District Judge in the district concerned, and clause 4 of the Bill provides for composition, tenure and other terms and conditions of the Employment Tribunal, which shall nullify the duties and powers of the existing Local Complaint Committee (LCC) established by the principal Act. This will involve diversion of funds and grants utilised by erstwhile LCC to the Employment Tribunal. Additionally, it will require consultation with subject matter experts and various agencies who will be compensated for their involvement and will involve recurring expenditure from the Consolidated Fund of India. However, it is difficult to estimate the actual financial expenditure likely to be incurred at this stage.



## BILL NO. I OF 2023

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

**1.** (1) This Act may be called the Constitution (Amendment) Act, 2023.

Short title and  
commencement.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

**2.** After article 330 of the Constitution, the following article shall be inserted, namely:—

Insertion of  
new article  
330A.

**"330A.** (1) Seats shall be reserved for women in the House of the People.

Reservation  
of seats for  
women in the  
House of  
People.

(2) One-third of the total number of seats reserved under clause (2) of article 330 shall collectively be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be:

Provided that where the seat reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be, in relation to a State or Union territory is one, then, in every block comprising of three general elections to the House of the People, the seat in the first general election shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes and no seat shall be reserved in the other two general elections:

Provided further that where the seats reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be, in relation to a State or Union territory are two, then, in every block comprising of three general elections to the House of the People,—

(a) one seat shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes in the first two general elections in such a manner that the same constituency is not reserved for women in both the aforesaid elections; and

(b) no seat shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes in the third general election.

(3) As nearly as may be, one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election to the House of the People in a State or Union Territory shall be reserved for women and such seats may be allotted by rotation to different constituencies in that State or Union Territory in such manner, as Parliament may by law determine:

Provided that where the seat, not being a seat reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be, in relation to a State or Union Territory is one, then, in every block comprising of three general elections to the House of the People, the seat in the first general elections shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes and no seat shall be reserved for women in the other two general elections:

Provided further that where the seats, not being seats reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be, in relation to a State or Union territory are two, then, in every block comprising of three general elections to the House of the People,—

(a) one seat shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes in the first two general elections in such a manner that the same constituency is not reserved for women in both the aforesaid elections; and

(b) no seat shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes in the third general election.

Insertion of  
new article  
330B.

3. After article 330A of the Constitution, the following article shall be inserted, namely:—

Reservation of  
seats for  
women in the  
Council of  
States.

**"330B.** (1) Seats shall be reserved for women in the Council of States.

(2) One-third of the total number of seats to be filled under clause (2) of article 80 to the Council of States from a State or Union Territory shall be reserved for women.

(3) One-third of the total number of seats in the Council of States under clause (2) shall collectively be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be:

Provided that where the seat reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be, in relation to a State or Union territory is one, then, in every block comprising of three elections to the Council of States from a particular State or Union territory, the seat in the first election shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes and no seat shall be reserved in the other two elections.

Insertion of  
new article  
332A.

4. After article 332 of the Constitution, the following article shall be inserted, namely:—

**"332A.** (1) Seats shall be reserved for women in the Legislative Assembly of every State.

Reservation of seats for women in the Legislative Assemblies of the States.

(2) One-third of the total number of seats reserved under clause (3) of article 332 shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be:

Provided that where the seat reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be, in relation to a State is one, then, in every block comprising of three general elections to the Legislative Assembly of that State, the seat in the first general election shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes and no seat shall be reserved in the other two general elections:

Provided further that where the seats reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be, in relation to a State are two, then, in every block comprising of three general elections to the Legislative Assembly of that State,—

(a) one seat shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes in the first two general elections in such a manner that the same constituency is not reserved for women in both the aforesaid elections; and

(b) no seat shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes in the third general election.

(3) One-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in the Legislative Assembly of every State shall be reserved for women and such seats may be allotted by rotation to different constituencies in that State in such manner, as Parliament by law determine."

**5.** After article 334 of the Constitution, the following article shall be inserted, namely:—

Insertion of new article 334A.

**"334A.** Notwithstanding anything in the foregoing provisions of the Constitution, the provisions relating to the reservation of seats for women in the House of the People, the Council of States and the Legislative Assembly of a State shall cease to have effect on the expiration of a period of twenty-five years from the commencement of this Act".

Reservation of seats for women to cease after twenty-five years.

**6.** The amendments made to the Constitution by this Act shall not affect any representation in the House of the People or the Council of States or the Legislative Assembly of a State until the dissolution of the House or the Legislative Assembly of a State or expiration of the term of present members, as the case may be, in existence at the commencement of the said Act.

Amendments not to affect representations in the House of the People or the Council of States or the Legislative Assembly of a State.

## STATEMENT OF OBJECTS AND REASONS

The Bill to provide for one-third mandatory representation to women in the country was introduced in the Rajya Sabha in May 2008 and was referred to a Standing Committee. In 2010, it was passed in the House and transmitted finally to the Lok Sabha. However, the Bill lapsed upon the dissolution of the 15th Lok Sabha. The original idea for the above-mentioned Government Bill originated from seventy-third and seventy-fourth Constitutional Amendment Acts, which provided for reservation of seats for women in rural and urban local bodies respectively.

According to the Global Gender Gap Report 2021, India has declined on the political empowerment index by 13.5 percentage points, and a decline in the number of women ministers, from 23.1% in 2019 to 9.1% in 2021. The various surveys do indicate that women representatives from Panchayati Raj have worked commendably in the development and overall well-being of society in villages and many of them would definitely want to work on the larger scale, however, they face various challenges in the political structure prevalent in India. Challenges in this regard thus include lack of proper political education, low financial power of women in society, sexual violence, manifestations of insecure patriarchy and an uneven distribution of household work between men and women among others.

According to an Inter-Parliamentary Union study, India ranks 149th out of 193 countries in terms of female representation in the lower or single House of Parliament. It is inexcusable that in a country where women account for half of the population, they have an abysmally low 14% representation in the Lok Sabha and 11% in the Rajya Sabha. The scenario for women Members of Legislative Assemblies (MLAs) across all State Assemblies in India was even worse, with the national average being a pitiable 9%. Therefore, the political empowerment of women is rightly perceived as a powerful and indispensable tool for eliminating gender inequality and discrimination.

The Bill seeks to achieve the above objectives.

FAUZIA KHAN.

## BILL NO. XXV OF 2023

*A Bill further to amend the Constitution (Scheduled Tribes) Order, 1950 to modify the list of Scheduled Tribes in the State of Maharashtra.*

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Scheduled Tribes) Order (Amendment) Act, 2023. Short title.

2. In the Constitution (Scheduled Tribes) Order, 1950, in the Schedule, in Part IX.— Amendment of Schedule.  
*Maharashtra*, for entry 36, the following entry shall be substituted, namely:—

"36. Oraon, Dhangad, Dhangar".

## STATEMENT OF OBJECTS AND REASONS

Scheduled Tribes have been defined in clause (25) of article 366 of the Constitution as "such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under article 342 to be Scheduled Tribes for this Constitution."

**2.** Article 342 of the Constitution provides as under:—

"342. Scheduled Tribes

(1) The President may concerning any State or Union territory, and where it is a State, after consultation with the Governor thereof, by public notification, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for this Constitution be deemed to be Scheduled Tribes about that State or Union territory, as the case may be.

(2) Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under clause (1) any tribe or tribal community or part of or group within any tribe or tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification."

**3.** In accordance with the provisions of article 342 of the Constitution, the first list of the Scheduled Tribes was notified during the year 1950 in respect of various States and Union territories, *vide*, the Constitution (Scheduled Tribes) Order, 1950. This list was modified from time to time. The list of Scheduled Tribes of the State of Maharashtra was last modified, *vide* the Constitution (Scheduled Tribes) Order (Amendment) Act, 2002 (Act 10 of 2003).

**4.** The Constitution (Scheduled Tribes) Order (Amendment) Bill, 2023 proposes to amend Part IX.—Maharashtra of the Schedule to the Constitution (Scheduled Tribes) Order, 1950 by substituting entry 36 to include "Dhangar" along with "Oraon and Dhangad", as a synonym of these communities.

**5.** The Bill seeks to achieve the aforesaid objective.

FAUZIA KHAN.

## FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to include Dhangar as a synonym of Oraon and Dhangad in the list of Scheduled Tribes in the State of Maharashtra. The Bill, if enacted, may entail additional recurring and non-recurring expenditure from the Consolidated Fund of India on account of benefits to be provided to the persons belonging to the communities proposed in the Bill under the ongoing Central schemes meant for the welfare and development of the Scheduled Tribes.

It is not possible to estimate the additional expenditure to be incurred on this account at this stage. However, the expenditure, if any shall be accommodated within the approved budgetary outlay of the Government of India.

## BILL NO. X OF 2023

*A Bill to provide for free internet access to all the citizens in the country and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Right to Free Internet Act, 2023.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in case of a State, the Government of the State and in all other cases, the Central Government;

(b) "citizen" means any Indian citizen;

(c) "internet" means the latest and fastest version of internet available as approved by authorities;

(d) "service provider" means any public or private sector entity, which is providing internet facilities;

(e) "local authority" means a Municipal Corporation or Municipal Council or Zila Parishad or Nagar Panchayat or Panchayat, by whatever name called, and includes such other authority or body having administrative control or empowered by, or under any law for the time being in force to function as a local authority in any city, town or village;

(f) "notification" means a notification published in the Official Gazette; and

(g) "prescribed" means prescribed by rules made under this Act.

Right of  
citizens to  
free internet.

**3. (1)** Every citizen shall have the right to free internet access.

(2) No citizen shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from accessing internet facilities.

Special  
provisions for  
citizens  
belonging to  
backward and  
remote  
regions.

**4.** The appropriate Government shall, while ensuring universal access to internet to all citizens, take special measures to ensure that the citizens who belong to the backward and remote regions of the country are provided equal access to the internet.

Right to  
access any  
service  
provider.

**5. (1)** The appropriate Government shall ensure that the citizens have the right to choose any available service provider and may opt for any other service provider, as and when they desire.

(2) The appropriate Government shall also ensure that no service provider shall deny services to any citizen on account of his/her not having a permanent address.

Duties of the  
Central  
Government.

**6.** It shall be the duty of the Central Government to,—

(a) either directly provide internet access to all citizens or completely subsidize the services provided by any service provider so that internet access is ensured for all citizens;

(b) develop a framework to carry out the provisions of this Act by strengthening the public sector entities along with legally requiring the services of the private players;

(c) determine a tariff for such services and revise it regularly; and

(d) examine the reports provided by the State Governments under section 7 of this Act and propose necessary actions to ensure internet access for every citizen.

Duties of  
State  
Governments  
to monitor  
access and  
services.

**7.** It shall be the duty of the State Governments to monitor internet access at the micro level and provide precise reports to the Central Government about internet access and services provided by the service providers for the citizens within its jurisdiction, in such manner as may be prescribed.

Central  
Government  
to provide  
funds.

**8.** The Central Government shall provide funds to the State Governments, as grants-in-aid of revenues, to enable them to carry out the provisions of this Act.

Constitution  
of National  
Accessibility  
Council.

**9. (1)** The Central Government shall constitute by notification, a body to be known as the National Accessibility Council for performing the functions assigned under this Act.



(2) The National Accessibility Council shall consist of a Chairperson appointed by the Central Government in such manner as may be prescribed and such other members, as given below:—

- (i) representatives from both Houses of Parliament;
- (ii) representatives from the State Legislative Assemblies;
- (iii) representatives from the Central Government;
- (iv) representatives from the State Government; and
- (v) representatives of the service providers.

(3) The representatives mentioned in sub-clauses (i) to (v) above shall be appointed in such number and in such manner as may be prescribed.

(4) The allowances and other terms and conditions of service of the Chairpersons and Members of the National Accessibility Council shall be such as may be prescribed.

**10. (1)** Each State Government shall constitute, by notification, a body to be known as the State Accessibility Council for performing functions assigned under this Act.

Constitution  
of State  
Accessibility  
Councils.

(2) The State Accessibility Council shall consist of a Chairperson appointed by the State Government in such manner as may be prescribed and such other members, as given below:—

- (i) representatives from the State Legislative Assembly and State Legislative Council, where there are two Houses of the State Legislature;
- (ii) representatives from the State Government;
- (iii) representatives from the Local Self-Governments; and
- (iv) representatives of the service providers.

(3) The representatives mentioned in sub-clauses (i) to (iv) above shall be appointed in such number and in such manner as may be prescribed.

(4) The allowances and other terms and conditions of service of the Chairpersons and Members of the State Accessibility Councils shall be such as may be prescribed.

**11. The National Accessibility Council Shall,—**

Functions of  
the National  
Accessibility  
Council.

(a) decide the norms and standards of the services to be provided by the service providers;

(b) devise a mechanism to redress grievances of aggrieved parties arising out of the implementation of the provisions of this Act; and

(c) perform such other functions as may be assigned to it by the Central Government.

**12.** The State Accessibility Councils shall perform such functions as may be assigned to them by the State Governments in consultation with the National Accessibility Council.

Functions of  
the State  
Accessibility  
Councils.

**13. (1)** The appropriate Government may, by notification, make rules, for carrying out the provisions of the this Act.

Power to  
make rules.

(2) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect

only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

Power to  
remove  
difficulty.

**14.** If any difficulty arises in giving effect to the provisions of this Act, the appropriate Government may by notification, make such provisions, not inconsistent with this Act, as appears to them to be necessary or expedient for removing the difficulty.

## STATEMENT OF OBJECTS AND REASONS

Internet is a technology that serves as the primary source of information to millions of Indian citizens.

2. The Indian Constitution make the Right to Freedom of Speech and Expression a Fundamental Right for all citizens, as enshrined in article 19(1)(a). All citizens of the country should, therefore, be able to access internet in order to exercise and enjoy their right to freedom of expression and opinion, and other fundamental human rights.

3. The Central Government and the State Governments have the responsibility to ensure that internet access is broadly available and that there are no unreasonable restrictions on an individual's access to the internet.

4. This Bill seeks to expand the scope of the constitutional Right to Freedom of Speech and Expression granted to all citizens of the country by making internet accessible to all free of cost. The Bill also envisages to bridge the digital divide in society.

The Bill seeks to achieve its objectives.

V. SIVADASAN.

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that no citizen shall be liable to pay any kind of charges or expenses for accessing internet facilities. Clause 4 provides that the appropriate Government shall take special measures to ensure internet access to citizens belonging to backward and remote regions of the country. Clause 6 (a) provides that the Central Government shall either directly provide universal internet access or completely subsidize the services provided by any other service provider. Clause 8 provides that the Central Government shall provide funds to the State Government, as grants-in-aid of revenues, to enable them to carry out the provisions of this Act. Clause 9 provides for the constitution of a National Accessibility Council, appointments of its members and their allowances.

The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is, however, not possible at this stage to estimate the expenditure involved.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill empowers the Central Government and the State Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO. XI OF 2023

*A Bill to provide for free access to public space to all citizens and for matters connected therewith and incidental thereto.*

BE it enacted by the Parliament in the Seventy-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Right to Public Space Act, 2023.

Short title  
and  
commence-  
ment.

(2) It shall come into force at once on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in case of a State, the Government of that State and in all other cases, the Central Government;

(b) "local authority" means a Municipal Corporation or Municipal Council or Zila Parishad or Nagar Panchayat or Panchayat, by whatever name called and includes such other authority or body having administrative control or empowered by, or under any law for the time being in force to function as a local authority in any city, town or village;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "public space" means any real property or structures thereon or any open spaces including libraries or buildings of other voluntary organizations, where entry is completely free and unrestricted to the general public, under the ownership or jurisdiction of the appropriate Government or local authority;

(e) "citizen" means any citizen of India; and

(f) "walking distance" means a distance of three hundred meters.

Right of citizens to free public space.

**3. (1)** Every citizen shall have the right of access to a public space at a walking distance from his place of residence.

(2) No citizen shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from accessing public space.

(3) The appropriate Government shall ensure that public space is empowered with adequate provisions for education, entertainment and physical exercise of citizens.

Special provisions for senior citizens and differently-abled citizens.

**4.** The appropriate Government shall, while ensuring universal access to public space to all citizens, take special measures to ensure that the senior citizens and the differently-abled citizens are provided equal access to such public space.

Universal access to public space.

**5.** The appropriate Government shall ensure that,—

(i) the public space designed and designated under this Act are secular in nature; and

(ii) no citizen, on the grounds of religion, faith, caste, community or ethnicity, is discriminated against, in respect of free access to public space.

Duty of Appropriate Government and local authority to establish public space.

**6.** For implementing the provisions of this Act, the appropriate Government and local authority shall notify or establish, where it is not so established, within such area or limits of neighbourhood, as may be prescribed, a public space, within a period of two years from the commencement of this Act.

Central Government to Provide funds.

**7.** The Central Government shall provide funds to the State Governments, as grants-in-aid of revenues, to enable them to carry out the purposes of this Act.

Duties of appropriate Government or local authority.

**8.** It shall be the duty of the appropriate Government or local authority, as the case may be, to—

(a) ensure availability of a free and empowered public space within walking distance and its free access to all citizens;

(b) ensure that no citizen is discriminated against and prevented from accessing public spaces;

(c) provide infrastructure including building, equipments and staff for carrying out the purposes of this Act.

9. (1) The appropriate Government may, by notification, make rules, for carrying out the provisions of this Act. Power to make rules.

(2) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

## STATEMENT OF OBJECTS AND REASONS

Free access to a deliberative public space is a fundamental human right. Access to empowering, educative and transformative public spaces is the right and necessity for every human being. There is a need for establishment of public spaces where people can meet, discuss, debate, deliberate and learn.

There is an urgent requirement to establish, attain and ensure the right of free access to public space to every citizen of the country.

Therefore, the Central and State Governments and local authorities should take necessary measures to ensure that public spaces are established in every single ward of our Local Self Governing bodies. Further, public spending and resources for the establishment, support and promotion of public spaces should also be increased.

Hence, this Bill.

V. SIVADASAN.



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FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that no citizen shall be liable to pay any kind of charges or expenses which may prevent him or her from accessing the public space.

Clause 4 provides that the appropriate Government shall take special measures to ensure that senior citizens and differently-abled citizens are provided equal access to public space.

Clause 6 provides that the appropriate Government and local authority shall establish public space.

Clause 7 provides that the Central Government shall provide funds to the State Governments, as grants-in-aid of revenues, to enable them to carry out the purposes of this Bill.

Clause 8 provides that the appropriate Government or the local authority, as the case may be, shall provide infrastructure including building, equipments and staff for carrying out the purposes of this Bill.

The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is, however, not possible at this stage to estimate the expenditure involved.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government and the State Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO. XXVI OF 2023

*A Bill to provide for the right to early childhood care to all children in the country and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Right to Early Childhood Care Act, 2023.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in case of a State, the Government of that State and in all other cases, the Central Government;

(b) "child" means any child living within the territory of India under the age of six years;

(c) "early childhood care" means proper nutritious food, healthcare, play and early education within a protective and enabling environment to ensure proper growth, scientific upbringing and proper mental and physical wellbeing and development of the child.

(d) "local authority" means a Municipal Corporation or Municipal Council of Zila Parishad or Nagar Panchayat, by whatever name called, and includes such other authority or body having administrative control or empowered by, or under any law for the time being in force to function as a local authority in any city, town or village;

(e) "parent" means either the natural or step or adoptive father or mother or a guardian who has legal custody of the child and who is responsible for bringing up and caring for a child or a group of children; and

(f) "prescribed" means prescribed by rules under this Act.

Right to early  
childhood  
care.

**3.** (1) Every child shall have the right to early childhood care.

(2) No parent shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from accessing the benefits of universal early childhood care for his/her child.

Special  
provisions for  
differently-  
abled children.

**4.** The appropriate Government shall while ensuring universal access to early childhood care to all children, take special measures to address the special needs of and provide special facilities to the differently-abled children.

Universal  
access to early  
childhood care.

**5.** The access to early childhood care should be designed in such a way that no child is left out of the ambit of its benefit due to income inequality, social inequity or information asymmetry.

Central  
Government  
to provide  
funds.

**6.** (1) The Central Government shall have the primary responsibility for providing funds for carrying out the purposes of this Act.

(2) The Central Government shall provide funds to the State Governments, to meet such percentage of expenditure as may be prescribed, in consultation with the State Governments, as grants-in-aid of revenues, to enable them to carry out the purposes of this Act.

Duties of  
appropriate  
Government  
or local  
authority.

**7.** It shall be the duty of the appropriate Government or local authority, as the case may be, to—

(a) ensure free early childhood care to every child;

(b) ensure that no child is discriminated against and/or prevented from accessing early childhood care;

(c) notify or establish, where it is not so established, a well-equipped early childhood care centre, within such area or limits of neighbourhood, as may be prescribed; and

(d) provide necessary infrastructure for the care centres including building, equipments and well-trained staff.

Power to  
make rules.

**8.** (1) The appropriate Government may, by notification, make rules, for carrying out the provisions of this Act.

(2) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

## STATEMENT OF OBJECTS AND REASONS

Early childhood refers to the formative stage of the first six years of life, which is the period of most rapid growth and development and critical for survival of a child. Deficiencies during this stage will have substantive and cumulative adverse impact on human development. As children are the future of our country, it is imperative to accord priority attention to early childhood care including proper nutrition, health care, play and early learning within a protective and enabling environment.

2. Child malnutrition is one of the most serious problems being faced by our country today. Stunted growth and malnutrition are affecting our children and we are lagging behind many nations in this regard. This is an issue which needs to be addressed soon.

3. The Central Government shall take it up as statutory responsibility backed by sound legislation to ensure right to early childhood care to all children of India.

The Bill seeks to achieve this objective.

V. SIVADASAN.

## FINANCIAL MEMORANDUM

Sub-clause (2) of Clause 3 of the Bill provides that no parent shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from accessing the benefits of universal early childhood care for his/her child.

Clause 4 provides that the appropriate Government shall take special measures to address the special needs of and provide special facilities to the differently-abled children.

Clause 6 provides that the Central Government shall have the primary responsibility for providing funds and shall provide funds to the State Governments, to meet such percentage of expenditure, as may be prescribed, as grants-in-aid of revenues, to enable them to carry out the purposes of this Bill.

Clause 7 provides that it shall be the duty of the appropriate Government or the local authority, as the case may be, to notify or establish, a well-equipped early childhood care centre, within such area or limits of neighbourhood, as may be prescribed and also provide infrastructure including building, equipments and well-trained staff.

The Bill, therefore, if enacted will involve expenditure from the Consolidated Fund of India. It is, however, not possible at this stage to estimate the expenditure involved.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government and the State Governments to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL No. III OF 2023

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

Short title and  
commencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 2023.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Amendment  
of article 326.

2. In article 326 of the Constitution, the following proviso shall be inserted, namely:—

"Provided that the word 'crime' referred to in this article, in case of undertrial prisoners, shall be confined to such non-bailable offences, as may be provided for, by or under any law made by the appropriate Legislature, punishable with imprisonment for more than seven years."



## STATEMENT OF OBJECTS AND REASONS

India is one among the few countries to have instituted a blanket ban on the voting rights of prisoners. When the nation went to the polls in the 2019 Lok Sabha elections, nearly five lakh people out of the ninety crore-strong electorate were denied the right to franchise on account of being in prison. This number included incarcerated convicted prisoners as well as undertrial prisoners. Section 62(5) of the Representation of the People Act, 1951 stipulates that "No person shall vote at any election if he or she is confined in a prison, whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police". The said Act derives its authority to formulate such a provision from article 326 of the Constitution of India.

2. As per the data in the "Prison Statistics of India, 2020" published by the National Crime Records Bureau (NCRB), around 76 per cent. of the total number of inmates populating prisons across the country are undertrial - neither convicted nor acquitted, but simply languishing in jails, living between one hearing to the next, waiting for the final verdict to seal their fate. This means that more than three quarters of the people, who were denied suffrage for being in prison, are actually non-criminals if the edict of "innocent until proven guilty" holds any water.

3. The socio-economic composition of undertrial prisoners must not be neglected. Muslims account for around 20 per cent, Dalits around 21 per cent., Adivasis 10 per cent., and Other Backward Classes around 42 per cent of the tally. For communities that are historically marginalised and under-represented in all institutions of the State, the right to choose their representatives holds great significance. Further, about 27 per cent. of all undertrial prisoners were found to be illiterate while 41 per cent. had dropped out before Class X. They are largely poor and unable to afford the bail bond or surety required to secure bail, or even the hefty costs of litigation itself. Those who can afford the amount are out on bail and entitled to vote.

4. In *Hussainara Khatoon & Ors. v/s. Home Secretary, State Of Bihar*, 1980, the Supreme Court gave a landmark ruling in the interest of undertrial prisoners, enhancing the scope of interpreting article 21 of the Constitution (Protection of Life and Personal Liberty). Later, section 436A has been inserted in the Code of Criminal Procedure, 1973, stipulating that when a person has "undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for an offence, for which the punishment of death has not been specified as one of the punishments under any law, he or she shall be released by the Court on his personal bond with or without sureties". However, implementation continues to be a challenge.

5. The 268th Report of the Law Commission also recognised the need to bring in a Bail Law based on the principles of liberalising the bail system. As stated several times by the apex court, "Bail should be the norm, jail is an exception". Reforms in granting bail to undertrial prisoners are the need of the hour. Likewise, the voting rights of undertrial prisoners are also to be weighed in a similar fashion.

6. In the light of the above, there is a pressing need to amend article 326 of the Constitution so as to ensure the right of adult franchise to undertrial prisoners facing charges of bailable offences or of non-bailable offences punishable with imprisonment of seven years or less.

The Bill seeks to achieve the said objective.

JOHN BRITTAS.

## BILL NO. VII OF 2023

*A Bill further to amend the Representation of the People Act, 1951.*

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

Short title and  
commencement.

**1.** (1) This Act may be called the Representation of the People (Amendment) Act, 2023.

(2) It shall come into force at once.

Amendment of  
Section 62.

**2.** In sub-section (5) of section 62 of the Representation of the People Act, 1951, for the words “or transportation or otherwise,” the words “or facing trial for a non-bailable offence punishable with imprisonment for more than seven years” shall be substituted.

## STATEMENT OF OBJECTS AND REASONS

During the Constituent Assembly Debates of 1946 to 1949, one of the few proposals that were agreed upon through near-unanimous consensus was Universal Adult Franchise. India, which was well on its path to becoming a buoyant democracy, recognised the significance of choosing one's own representatives as far back as pre-independence. Yet, 75 years later, we continue to be one of the few countries with a blanket ban on the voting rights of prisoners.

Data from the 2021 report of the National Crime Records Bureau (NCRB) show that the number of undertrial prisoners in jails across the country registered a 15% increase, from 3.7 lakh in 2020 to 4.2 lakh in 2021. Under Section 62(5) of the Representation of the People Act, 1951, this entire class of people is excluded from the ambit of casting their vote in elections to any legislative body - apart from convicted prisoners. The undertrial prisoners form around 77 per cent. of the total number of inmates, many of whom are facing charges for petty crimes with mild punishment in case of conviction. Even the detainees in Civil Prisons are deprived of their right to vote.

In *Satender Kumar Antil Vs. CBI & Anr* (2022), the Supreme Court noted that "the majority of undertrial prisoners may not even be required to be arrested despite registration of a cognizable offence... they are not only poor and illiterate but also include women". Indeed, NCRB data records 25 per cent. of the undertrial population as being illiterate. In the absence of data on the economic standing of prisoners, education level and social background can stand in as useful proxies for gauging the degree of backwardness and vulnerability. The poor find it difficult to furnish bail even without sureties because very often the amount of the bail fixed by the courts is so excessive that in a majority of cases the poor are unable to satisfy the police or the Magistrate about their solvency for the amount of the bail and where the bail is with sureties, as is usually the case, it becomes an almost impossible task for the poor to find persons sufficiently solvent to stand as sureties. So the end result would be that the accused persons, having poor economic background, of even bailable offences languish in jails.

Section 436A of the Code of Criminal Procedure, 1973 stipulates that a person having undergone detention for half as much time as the maximum period of imprisonment for the alleged offence, for which the punishment of death has not been specified as one of the punishments, is entitled to be released on bail with or without sureties. In *Hussain and Anr. v/s Union of India & Ors.* (2017), the Apex Court had ordered expeditious disposal of bail applications on the principle of bail being the norm and jail the exception. However, the implementation continues to be a challenge.

The ban on undertrial prisoners to exercise their right of franchise, including those being tried for bailable offences, lacks any reasonable classification based on the nature of crime or duration of sentence unlike some countries such as South Africa, Germany, France, Canada, etc. Another stark contradiction in this regard is that the undertrials who are out on bail, even in non-bailable offences, can enjoy the right to vote. This is anathema to articles 14 and 21 of the Constitution.

At several junctures, the Election Commission of India has found its hands tied by such laws. Even though many petitions have sought to challenge this restriction on universal adult suffrage, it continues to pose a threat to the democratic ethos of our nation. In light of the above, there is a pressing need to amend section 62(5) of the Representation of the People Act, 1951, so as to ensure the right to vote to undertrial prisoners facing charges of all bailable offences or of non-bailable offences punishable with imprisonment of 7 years or less.

The Bill seeks to achieve the said objective.

JOHN BRITTAS.

## BILL NO. II OF 2023

*A Bill further to amend the Reserve Bank of India Act, 1934.*

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

Short title and  
commencement.

1. (1) This Act may be called the Reserve Bank of India (Amendment) Act, 2023.

(2) It shall come into force at once.

Amendment of  
section 45E.

2. In section 45E of the Reserve Bank of India Act, 1934, in sub-section (2), after clause (c), the following clause shall be inserted namely:—

"(ca) the mandatory disclosure and publication within seven months upon expiry of each financial year by the Bank and by each banking company, notwithstanding anything to the contrary contained in any law for the time being in force or in any instrument regulating the constitution thereof or in any agreement executed by it, relating to the secrecy of its dealings with its clients including borrowers, of the names and full details of credit information of those defaulting borrowers whose loans or advances or other credit facilities with an asset value of five crore rupees or above, provided by any banking company has been written off or classified as a Doubtful or Loss Asset in that financial year:

Provided that the publication of credit information of defaulting borrowers shall be caused by publishing the notice in a newspaper published in English language at national level and in a newspaper published in a vernacular language which is in circulation in those States where the borrower ordinarily resides or the principal office of the borrower is situated, apart from publishing on the websites of the Bank and the banking company concerned."

## STATEMENT OF OBJECTS AND REASONS

The modern democratic system rests on the twin pillars of public funding and public trust. In an answer tabled by the Ministry of Finance in the Rajya Sabha on 13th December 2022, it was conveyed that a staggering amount to the tune of 10,09,510 crore rupees had been written off by the Scheduled Commercial Banks (SCBs) during the last five financial years, whereas the recovery in the written-off loans during the same period was a paltry sum of 1,32,036 crore rupees. In financial year 2021-22 alone, a humongous sum of 1,74,966 crore rupees was written off by SCBs, while the recovery thereon during the said period was a meagre sum of 33,534 crore rupees.

Section 45E of the Reserve Bank of India Act, 1934 stipulates that any credit information contained in statements submitted to or furnished by the Reserve Bank to the banking companies shall be treated as confidential. As a consequence, the details of top defaulters are not available to the public at large. Major corporate giants, private individuals and industrialists benefit from this absence of such provisions in the law, while the ordinary working-class and middle-class people mostly adhere to the stipulated loan conditions. As the adage goes 'sunlight is the best disinfectant', publishing the details of the wilful bigwig defaulters in the public domain will, to a large extent, act as a deterrent of such untoward classification.

As per RBI guidelines, Non-Performing Assets (NPAs), including *inter-alia*, those in respect of which full provisioning has been made on completion of four years, are removed from the balance-sheet of the Bank concerned by way of write-off. Even though it is claimed that Banks pursue recovery actions initiated in written-off accounts by filing suits in civil courts or Debts Recovery Tribunals, or in the National Company Law Tribunal under the Insolvency and Bankruptcy Code, 2016, SCBs have only managed to recover a paltry sum of 1,32,036 crore rupees in the last five financial years as compared to the colossal 10,09,510 crore rupees being written off by SCBs during the same period. It is equally pertinent to note that there is a substantial increase in the quantum of amounts written off over the years as evident from the fact that the amount written off from 01.04.2014 till 31.03.2019 had been 6,19,244 crore rupees for public and private sector Banks combined.

In the light of the above, there is a pressing need to amend section 45E of the Reserve Bank of India Act, 1934 so as to publish the details of borrower-wise credit information in the public domain, of those defaulting borrowers whose loans or advances or other credit facilities provided by any banking companies has been written off or classified as a Doubtful or Loss Asset with an asset value of five crore rupees or above, thus infusing greater transparency and public confidence in the fiscal management of the nation.

The Bill seeks to achieve the said objectives.

JOHN BRITTAS.

## BILL NO. IV OF 2023

*A Bill further to amend the Antiquities and Art Treasures Act, 1972.*

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

Short title and  
commencement.

**1.** (1) This Act may be called the Antiquities and Art Treasures (Amendment) Act, 2023.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment  
of section 25.

**2.** In section 25 of the Antiquities and Art Treasures Act, 1972,—

52 of 1972.

(i) in sub-section (1), for the words, "imprisonment for a term which shall not be less than six months but which may extend to three years and with fine", the words, "imprisonment for a term which shall not be less than one year but which may extend to ten years and with fine that the court may determine after taking into consideration

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the factors including but not limited to the age of antiquity or art treasure, rarity of the antiquity or art treasure and the artistic, aesthetic, historical, architectural, archaeological or anthropological importance of the antiquity or art treasure" shall be substituted;

(ii) in sub-section (2), for the words, "for a term which may extend to six months", the words, "for a term which may extend to three years" shall be substituted; and

(iii) in sub-section (3), for the words, "for a term which may extend to six months", the words, "for a term which may extend to three years" shall be substituted.

## STATEMENT OF OBJECTS AND REASONS

Despite regulations, thieves and smugglers continue to threaten India's unique cultural wealth and heritage. According to the National Crime Records Bureau, just over 200 Indian antiquities were either returned or were in the process of being deported from the United States, Australia, Singapore, Germany, Canada, and England. This pales in comparison to the enormous quantity of antiquities that have been illegally removed from the country and are still unaccounted for. According to an audit done by the Hindu Religious and Charitable Endowments Department of the Government of Tamil Nadu, in 2018, 4,408 items were stolen from 3,676 protected monuments across India between 1992 and 2017.

2. The Antiquities and Art Treasures Act, 1972, prohibits export of antiquities and allows their sale within the country only under a license and its non-compliance can result in jail sentences of up to three years, a fine, or both. These punitive measures are not enough, considering the rewards accruing from smuggling which are disproportionately large. Global Financial Integrity, a Washington-based advocacy group, estimates that illegal trade in paintings, sculptures, and other artifacts is one of the world's most lucrative criminal enterprises, worth six billion dollars a year.

3. It is with this objective that the Bill is presented to re-examine and restructure the penal provisions with regard to the export or an attempt to export the antiquities or art treasures in contravention of the provisions under the aforesaid Act. The aim is to deter the stealing and smuggling of the antiquities by enhancing the term of imprisonment in order to protect and preserve the priceless and invaluable antiquities and art treasures of the country.

Hence, this Bill.

SUJEET KUMAR.



## BILL NO. V OF 2023

*A Bill further to amend the Indian Penal Code, 1860.*

BE it enacted by the Parliament in the Seventy-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 2023.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

45 of 1860.

2. After section 24 of the Indian Penal Code (hereinafter referred to as the Code), the following new section shall be inserted, namely:—

Insertion of  
Section 24A.

"**24A.** Whoever commits an act with the intention of causing death or with the intention of causing such bodily injury as is likely to cause death to a woman or a group of women because of their sex or gender, and such act results in death of the woman or a group of women, commits the offence of "femicide".

"Femicide"

Insertion of  
section  
300A.

3. After section 300 of the Code, the following new section shall be inserted, namely:—

Murder  
amounting to  
femicide.

"**300A.** Except in the cases excepted under sections 299 and 300, murder shall amount to femicide, if the act by which the death caused, is done with the intention of causing death of the woman or a group of women, or—

*2ndly.*—If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of a woman or a group of women to whom the harm is caused by an intimate or non-intimate partner, or—

*3rdly.*—If it is done with the intention of causing bodily injury to any woman or a group of women and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, for bringing dishonor upon the family name or prestige, or—

*4thly.*—If the person commits sexual violation in a way that the person knows that it is so imminently dangerous that it will, in all probability, cause death, or such bodily injury resulting in death, and commits such act with the intention to establish superiority or ownership over a woman or a group of women."

Insertion of  
section  
302A.

4. After section 302 of the Code, the following new section shall be inserted, namely:—

Punishment  
for femicide.

"**302A.** Whoever attempts to commit or commits femicide shall be punished with rigorous imprisonment for life, and shall also be liable to pay a fine amounting to not less than ten lakh rupees."

## STATEMENT OF OBJECTS AND REASONS

The data from the National Crime Records Bureau shows that the rate of crime against women (number of incidents per 1 lakh population) has increased from 56.5 per cent in 2020 to 64.5 per cent in 2021. The data encompasses all crimes committed against women but does not specifically indicate the number of deaths caused. The murder of women is never really understood as the complex gendered factors behind such violence and aggression is not taken into cognizance.

2. Recent murders have drawn public attention to the increasing gender-based violence in India. This is in the backdrop of India's continued commitment to the UN Declaration on ending violence against women that includes the threat of such acts or even coercion occurring in both public and private life.

3. The Indian Penal Code, 1860 does not define femicide nor does it provide enhanced punishment for crimes motivated by gendered stereotypes, emanating from discrimination towards women and girls and unequal power relations between women and men, or harmful social norms. The World Health Organization has highlighted the types of femicide as: dowry-related femicide, honour killings, non-intimate and intimate and sexual femicide.

4. Therefore, it is pertinent to bring the different variations of murder amounting to femicide under the ambit of the Indian Penal Code which otherwise are not linked to gender-based motives.

Hence, this Bill.

SUJEET KUMAR.

## BILL NO. VI OF 2023

*A Bill further to amend the Central Educational Institutions (Reservation in Admission) Act, 2006.*

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

Short title and  
commencement.

**1.** (1) This Act may be called the Central Educational Institutions (Reservation in Admission) Amendment Act, 2023.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment  
of Section 3.

**2.** In section 3 of the Central Educational Institutions (Reservation in Admission) Act, 2006, after sub-clause (iii), the following sub-clause shall be inserted, namely:—

5 of 2007.

“(iv) out of the annual permitted strength in each branch of study or faculty, thirty three per cent. seats shall be reserved for women including the number of seats secured by women under sub-clauses (i), (ii) and (iii).”.

## STATEMENT OF OBJECTS AND REASONS

Education is the most important tool for empowering women through knowledge, skills and self-confidence. It helps in reducing gender discrimination and also improves their status in the family and society. Numerous studies have consistently shown that educating girls leads to significant and wide-reaching benefits not only to women themselves and their families but also to their societies and economies.

2. Higher education is the gateway to economic security and opportunity particularly for women in India. The UNESCO Report of 2021 on "Women in higher education: has the female advantage put an end to gender inequalities?" highlights the gender disparities with the following takeaways from the report:

- Regardless of encouraging statistics on women access to higher education, women still encounter obstacles when seeking to occupy key academic positions in universities, to be involved with relevant research, and to take leadership roles.
- Women are overrepresented among teaching staff at lower education levels, while their presence is markedly lower in tertiary education (vertical segregation). Women are also still underrepresented as senior faculty and in higher education decision-making bodies in many countries.

3. The situation is quite similar for India as well. There are slightly more than a quarter of Professors in Indian academia who are women. In 2018-2019, women in India held 27.3 per cent. of faculty positions for Professor and equivalent, 36.8 per cent. of faculty positions for Reader and Associate Professor and 42.6 per cent. of faculty positions for Lecturer or Assistant Professor (MHRD, 2019).

4. According to *The Equality Equation: Advancing the Participation of Women and Girls in STEM*, a World Bank report that provides a rich overview of global patterns of gender gaps in STEM education, merely 18 per cent. of girls enrolled at the tertiary level are pursuing studies in the field of STEM, as compared to 35 per cent. of boys. Women, in fact, account for only 33 per cent. of researchers, 22 per cent. of professionals working in artificial intelligence and 28 per cent. of engineering students across the world. In India, women make up just 14 per cent. of scientists, engineers, and technologists in research development institutions and universities.

5. Higher education represents itself as a milestone for women empowerment by encouraging them to come out of their traditional role as woman despite several challenges. Providing reservation to women in Central Educational Institutions will be an affirmative step towards fulfilling the constitutional obligation to ensure equality as guaranteed by article 14 of the Constitution. Increasing access to higher education will make women free from rigid practices of gender inequalities through their potentialities.

6. It is with this objective that the Bill is presented to address the needs of women in higher education and bring down systemic barriers and widen opportunities for their leadership and full participation in society.

Hence, this Bill.

SUJEET KUMAR.

## BILL NO. XXIII OF 2023

*A Bill further to amend the Representation of the People Act, 1951.*

BE it enacted by the Parliament in the Seventy-fourth Year of the Republic of India as follows:—

Short title and  
commencement.

**1.** (1) This Act may be called the Representation of the People (Amendment) Act, 2023.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Amendment  
of Section  
29A.

**2.** In section 29A of the Representation of the People Act, 1951, after sub-section (9), 43 of 1951. the following proviso shall be inserted, namely:—

"Provided further that the Election Commission can de-register or withdraw recognition of any political party, if the Commission has conclusive evidence that elected representatives and office bearers of a political party are engaged in propagating communal hatred, spreading fake information through various media, engaging in hate speech and functioning contrary to the principles of socialism, secularism and democracy enshrined in our Constitution."

## STATEMENT OF OBJECTS AND REASONS

The Preamble of the Constitution outlines the underlying ideals and philosophy, as well as the policy goals and objectives that our founding fathers envisaged. Giving due recognition to these principles, section 29A of the Representation of the People Act, 1951, in sub-section 5, clearly stipulates that an application for registration as a political party "shall be accompanied by a copy of the memorandum or rules and regulations of the association or body, by whatever name called, and such memorandum or rules and regulations shall contain a specific provision that the association or body shall bear true faith and allegiance to the Constitution of India as by law established, and to the principles of socialism, secularism and democracy, and would uphold the sovereignty, unity and integrity of India." However, section 29A of the Representation of the People Act, 1951 is silent about the course of action to be taken against a registered political party, if the Election Commission found that a particular political party/office bearers/elected representatives have violated the specific provisions of the memorandum (with special reference to the principles of socialism, secularism and democracy) submitted at the time of application for registration.

Over the years, it has been noted that political leaders and party representatives often use fake news, communal hatred and hate speech as effective tools to win elections through religious polarisation. A recent media report states that more than fifty politicians who hold elected office in the Lok Sabha and State Assemblies face charges in criminal cases related to inciting religious violence or stoking communal hatred. This is indeed a dangerous trend that can dismantle the very foundations of our democracy, secularism and ideals enshrined in the Constitution. Besides, this is a blatant violation of the provision of section 29A of the Representation of the People Act, 1951 which clearly states that an association or body shall bear true faith and allegiance to the Constitution of India for getting registration as a political party.

Laws against fuelling communal violence and offending communal sentiments are contained in sections 153A, 153B, 295, 295A, 505(1)(c), 505(2), and 505(3) of the Indian Penal Code, 1860 as well as in section 125 of the Representation of the People Act, 1951 which criminalises the promotion of "feelings of enmity or hatred" between communities in connection with an election. But the recurrent occurrence of hate speech and fake news propaganda necessitate the urgent need for inserting a 'strong provision' within the Representation of the People Act, 1951 to make political parties accountable for this. The Act needs to stipulate that a particular political party/parties will lose registration and recognition if the leaders and representatives of that political party/parties are found to be engaged in propagating communal hatred, hate speech, spreading of fake news and any other activity that violate the principles of socialism, secularism and democracy. Unless and until the political parties are not made accountable for the 'divisive activities of their office-bearers and representatives, this tendency will continue.

The Bill, therefore, seeks to amend the Representation of the People Act, 1951 to authorize the Election Commission to deregister a political party or withdraw recognition, if the elected representatives and office bearers of a political party propagate communal hatred, spread fake information through various media, engage in hate speech and function contrary to the principles of socialism, secularism and democracy enshrined in our Constitution.

Hence, this Bill.

SANDOSH KUMAR P.

**BILL NO. XII OF 2023**

*A Bill to provide for the establishment of a National Commission for the Welfare of Youth and for matters connected therewith or incidental thereto.*

BE it enacted by the Parliament in the Seventy-fourth Year of the Republic of India as follows:—

Short title and  
commencement.

**1.** (1) This Act may be called the National Commission for the Welfare of Youth Act, 2023.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.



2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "member" means a member of the National Commission;

(c) "National Commission" means the National Commission for the Welfare of Youth established under clause 3;

(d) "prescribed" means prescribed by rules made under this Act; and

(e) "youth" means any person who has attained the age of eighteen years but is not above the age of forty years.

3. (1) The Central Government shall, by notification in the Official Gazette, establish a body to be known as the National Commission for the Welfare of Youth to exercise powers conferred on and to perform the functions assigned to it under this Act.

Establishment of a National Commission for the Welfare of Youth.

(2) The Commission shall consist of—

(a) a Chairperson, below the age of forty years, having specialised knowledge and remarkable experience in the field of youth welfare to be appointed by the Central Government in such manner as may be prescribed;

(b) four members, below the age of forty years, to be nominated by the Central Government in such manner as may be prescribed, from amongst persons of ability, integrity and standing who have extensive professional experience in or with—

(i) law or legislation and legal bodies; or

(ii) voluntary organisations working for the welfare and empowerment of youth; or

(iii) organisations or industrial units or educational institutions committed to increasing the employability of youth; or

(iv) organisations working towards causes relating to health or social welfare, with a special focus on youth;

(c) one member-secretary, who shall be a senior member of the Indian Civil Service having at least ten years of professional experience in the management of matters related to the welfare and empowerment of youth.

4. (1) The Chairperson and members of the Commission may hold office for a period not exceeding three years from the date on which they assume office, or for such period as may be prescribed by the Central Government.

Term of office and conditions of service of the Chairperson and the members.

(2) The salary and allowances payable to, and other terms and conditions of service of the Chairperson and members of the Commission shall be such as may be prescribed.

5. (1) The Central Government shall appoint such number of officers and staff, including experts, to the Commission as may be required for its efficient functioning in such manner as may be prescribed.

Staff of the Commission.

(2) The salary and allowances payable to and other terms and conditions of service of the officers and staff including experts appointed for the purpose of the Commission shall be such as may be prescribed.

6. The National Commission shall function as an authority for ensuring the welfare and empowerment of youth in the Country and perform the following functions, namely:—

Duty and functions of the National Commission.

(a) formulate a comprehensive national policy for the welfare and empowerment of youth in the country;

(b) study, investigate and review all matters relating to the safeguards provided for youth under the Constitution and other laws and make recommendations for the effective implementation of these safeguards to improve the condition of youth in the country;

(c) formulate and implement schemes for the welfare of youth as may be assigned to it by the Central Government;

(d) coordinate with the departments of the appropriate Government for securing better education, well-being and employment opportunities for youth;

(e) undertake educational research to advise the Central Government to improve and ensure employment and entrepreneurial opportunities for the youth;

(f) advise the appropriate Government in the planning process for the socio-economic development of the youth, especially those belonging to Scheduled Castes, Scheduled Tribes and other weaker sections of the society;

(g) monitor the occupational health, safety and welfare-related issues of the youth working in the unorganised sector and other hazardous employment;

(h) act as a national-level grievance redressal mechanism in matters related to youth development, welfare and empowerment;

(i) receive and enquire into any complaints concerning the deprivation of rights of youth and recommend to the appropriate Government the action to be taken in that matter;

(j) advise the appropriate Government in any other matter as may be referred for its consideration, from time to time.

Youth Welfare Fund.

7. (1) The Central Government shall constitute a fund to be known as the Youth Welfare Fund to implement the provisions of this Act.

(2) The Central Government and the State Governments shall contribute to the Youth Welfare Fund in such ratio as may be prescribed.

Annual report.

8. (1) It shall be the duty of the Commission to present annually to the President a report as to the work done by the Commission within six months of the close of the year under report.

(2) The President shall cause to be laid before each House of Parliament the report submitted to him along with a memorandum explaining the reasons for not accepting any of the recommendations made thereto.

(3) Where the report or any of its part is related to any of the issues connected with a State Government, a copy of such report shall be forwarded to the Governor of that State, who shall in turn, along with an explanatory memorandum concerned with the action taken or proposed to be taken on the recommendations related to the State, if any, and reasons for not accepting any of the recommendations, cause such report to be laid before the State legislature.

Commission to have powers of Civil Court.

9. The National Commission shall, while investigating any matter referred to it under clause (i) of section 6 of this Act, have all the powers of a Civil Court trying a suit and, in particular in respect of the following matters, namely, :—

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or document or copy thereof from any Court or office;

(e) issuing commissions for the examination of witnesses and/or documents;  
and

(f) any other matter which may be prescribed.

**10.** The appropriate Government shall consult the National Commission on all policies affecting the interests of the youth.

Appropriate Government to consult the Commission.

**11.** If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, make such order or give such direction, not inconsistent with the provisions of this Act, as may appear to be necessary or expedient for removing such difficulty.

Power to remove difficulties.

**12.** The provisions of this Act and rules made there under shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have an overriding effect.

**13. (1)** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

India has one of the youngest populations in the world. Recently, the Ministry of Statistics and Programme Implementation released the 'Youth in India 2022' Report, according to which India is experiencing a demographic window of opportunity, known as the "youth bulge". Youth bulge refers to a demographic pattern in which a large proportion of the population is comprised of children and young adults. In this context, there is a need to reap the potential of our youth population through adequate policies, schemes and investments that can ensure the welfare and empowerment of the young population in this country.

Although youth constitute a significant share of our population, Indian youth is seriously constrained by various developmental challenges including lack of access to education and gainful employment, gender inequality, child marriage, lack of youth-friendly health services and adolescent pregnancy. There is an alarming rate of drug abuse among the youth as well. Hence, there is an urgent need to address these problems and make concrete efforts to ensure the welfare and empowerment of the Indian youth.

One of the serious limitations of our current policy framework for youth is the absence of an institutional mechanism at the national level to design, oversee and coordinate all the relevant matters related to youth in the country. Besides, even after 75 years of independence, we do not have a comprehensive youth policy that can effectively channelise the potential of our young population. Therefore, setting up a National Commission for the Welfare of Youth equipped with necessary powers and functions is an urgent policy priority.

The Bill seeks to attain the objectives mentioned above through the establishment of the National Commission for the Welfare of Youth.

SANDOSH KUMAR P.

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FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of a National Commission for the Welfare of the Youth to carry out the responsibilities assigned to it. It also provides for the appointment of a Chairperson, members and member-secretary. Clause 4 of the Bill provides for the term of office and conditions of service of the Chairperson and members of Commission. Clause 5 of the Bill provides for appointment of officers, staff and experts for the efficient functioning of the Commission and their salary and allowances. Clause 7 provides for the Central Government to establish a Youth Welfare Fund for the effective functioning of the Commission. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India which cannot be estimated at present. Recurring expenditure is also likely to be incurred.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

**BILL NO. XXXIII OF 2023**

*A Bill to ensure the participation of workers in the management of all industrial establishments in the country and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

**1.** (1) This Act may be called the Participation of Workers in Management Act, 2023.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2.** (1) In this Act, unless the context otherwise requires,—

Definitions.

(a) “Board of Directors” means the collective body of the directors of an industrial establishment;

(b) “prescribed” means prescribed by rules made under this Act;

(c) “representatives of registered trade union(s)” means representatives of the trade union(s) registered under the Industrial Relations Code, 2020.

(2) The words and expressions used but not defined in this Act and defined in the Industrial Relations Code, 2020, as the case may be, shall be deemed to have the meanings respectively as assigned to them in that Code. 35 of 2020.

Participation of workers in the management of industrial establishments.

**3.** (1) Notwithstanding anything contained in any other law for the time being in force, the Board of Directors of every industrial establishment shall include at least two representatives of the registered trade union(s) of that establishment to ensure the participation of workers in the management of the establishment.

(2) The representatives of the registered trade union(s) in the Board of Directors of the industrial establishment, shall be elected from amongst the workers of that industrial establishment, by secret ballot, in such manner as may be prescribed.

(3) It shall be mandatory, for such elected representatives of the registered trade union(s), to be present in every meeting of the Board of Directors.

(4) In every industrial establishment, the elected representatives of the registered trade union(s) shall enjoy equal rights and privileges as enjoyed by the other members of the Board of Directors.

(5) Any decision that directly or indirectly affects the interest of the workers of an industrial establishment shall be implemented only after discussing the same with the elected representatives of the registered trade union(s) on the Board of Directors.

Power to remove difficulties.

**4.** If any difficulty arises in giving effect to the provisions of this Act, the Central Government may make such order or give such directions, not inconsistent with the provisions of this Act, as may appear to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

Act to have an overriding effect.

**5.** The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Power to make rules.

**6.** (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.



## STATEMENT OF OBJECTS AND REASONS

Article 43A of the Constitution of India, under the Directive Principles of State Policy, states that 'the State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry'. This article was inserted by the Constitution (Forty-second Amendment) Act, 1976. The High-powered Expert Committee on Companies and the Monopolistic and Restrictive Trade Practices Act, 1969 headed by Justice Rajinder Sachar of the Delhi High Court also made certain recommendations about provisions to be made for workers' participation in the management of companies.

According to the International Labour Organization, workers' participation in management implies the participation of workers and their representatives in the decision-making process, ranging from exchange of information, consultations, decisions and negotiations. Besides, it also implies the representation of workers in institutionalized forms such as the presence of workers on the board of management.

The workers' participation in management can certainly improve the conditions of workers and industrial relations. In effect, workers' participation in the board of directors can end the era of industrial bonded labour as rightly envisaged by Justice V.R. Krishna Iyer. It reflects the spirit of industrial democracy. It is envisioned that the management of the industrial establishment should not be left entirely in the hands of suppliers of capital, but the workers should also be entitled to participate in it. The workers are the real producers of wealth. Collective decision-making at the apex level can also ensure less industrial conflict. Therefore, equal partnership in the management of industrial establishments is critically important.

Hence the Bill.

SANDOSH KUMAR P.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO. XIV OF 2023

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2023.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 343 of the Constitution,—

Amendment of  
article 343.

(i) in clause (1), for the words "The official language of the Union shall be Hindi in Devanagari script.", the words "The Official language of the Union shall be the languages mentioned in the Eighth Schedule to this Constitution." shall be substituted.

(ii) in sub-clause (a) in clause (3), after the words "the English language," the words "or the languages mentioned in the Eighth Schedule to this Constitution, or" shall be inserted.

Amendment of  
article 344.

**3.** In article 344 of the Constitution, sub clauses (a), (b) and (c) of clause (2) shall be omitted.

Amendment of  
article 348.

**4.** In article 348 of the Constitution, in clause (1), after the words "shall be in the English Language.", the words "or the languages mentioned in the Eighth Schedule to this Constitution." shall be inserted.

Omission of  
article 151.

**5.** In the Constitution, article 351 shall be omitted.

## STATEMENT OF OBJECTS AND REASONS

The Constitution has provided for the development of all the regional languages in addition to Hindi. In many countries across the world, multiple languages are recognized as the official national languages.

Additionally, clause (3) of article 344 states that in making their recommendations under clause (2), the Commission on Official Language shall have due regard to the industrial, cultural and scientific advancement of India, and the just claims and the interests of persons belonging to the non-Hindi speaking areas in regard to the public services.

India with a population of more than 130 crore has more than 700 languages. India, with such diverse languages, should promote all the languages listed in the Eighth Schedule of the Indian Constitution.

Hence, this Bill.

R. GIRIRAJAN.

## BILL NO. XXXIV OF 2023

*A Bill to recover the black money held abroad by Indian citizens and to establish a fund to deposit a prescribed share of the amount from such recovery into each Indian citizen's bank account and for matters connected therewith or incidental thereto.*

BE it enacted by the Parliament in the Seventy-fourth Year of the Republic of India as follows:—

Short title and  
commencement.

1. (1) This Act may be called the Black Money Recovery Act, 2023.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "black money" means any asset or income that has not been reported to the public authorities either at the time of their generation or disclosed thereto during their possession or recorded for tax purposes;

(b) "citizen" means any Indian citizen as per the provisions of the Citizenship Act, 1955;

(c) "Committee" means the Managing Committee of the Public Fund of India constituted under section 6 of this Act;

(d) "prescribed" means prescribed by rules made under this Act; and

(e) "Public Fund" means the Public Fund of India formed under section 4 of this Act.

**3. (1)** The Central Government shall, formulate a policy to be known as the "National Policy for Black Money Recovery" to recover all of the black money held abroad by Indian citizens, in such manner as may be prescribed.

National  
Policy for  
Black  
Money  
Recovery.

(2) It shall be the duty of the Central Government to implement the National Policy formulated under sub-section (1).

**4.** The Central Government shall, as soon as may be, by notification in the Official Gazette, constitute a fund with the State Bank of India to be known as the "Public Fund of India" for carrying out the purposes of this Act.

Constitution  
of the Public  
Fund of  
India.

**5.** It shall be the duty of the Central Government to,—

Duties of the  
Central  
Government.

(a) issue a White Paper on the black money recovered in accordance with the provisions of this Act, within seven days of each and every such recovery;

(b) deposit such recovered black money, as per provisions of section 3, into the Public Fund of India within fourteen days of each and every such recovery, in such manner as may be prescribed;

(c) deposit the recovered black money into each and every citizen's bank account held within the territory of India in such quantum and manner, as may be prescribed; and

(d) share the remaining recovered amount, if any, to all State Governments and the share of each State shall be calculated by the percentage of the Gross State Domestic Product contributed by each State on 31st day of March, 2022 in such manner as may be prescribed.

**6. (1)** Within seven days of coming into effect of this Act, the Central Government shall, by notification in the Official Gazette, constitute a Managing Committee of the Public Fund of India to perform the functions assigned to it under this Act.

Constitution  
of Manage-  
ment  
Committee.

(2) The head office of the Committee shall be at such place, as may be notified.

**7.** It shall be the duty of the Managing Committee to,—

Duties of the  
Managing  
Committee.

(i) monitor, supervise and coordinate the distribution of funds from the Public Fund in such manner as may be prescribed;

(ii) review the progress of distribution of funds from the Public Fund; and

(iii) perform such other functions as may be assigned to it.

**8. (1)** The Managing Committee shall consist of the following members, namely:—

Composition  
of Managing  
Committee.

(i) the Minister of Finance, Government of India, Chairperson, *ex-officio*;

(ii) the Leader of the Opposition in Lok Sabha or Rajya Sabha or any other Member of Parliament nominated by the opposition parties in the absence of a Leader of Opposition, Co-Chairperson, *ex-officio*;

(iii) the Chairman, NITI AAYOG, Vice-Chairperson, *ex-officio*;

(iv) the Governor, Reserve Bank of India — Member, *ex-officio*;

(v) six Members of Parliament representing the Lok Sabha, of which only a maximum of two shall belong to the ruling party, to be nominated by the Central Government, in such manner as may be prescribed — Member;

(vi) six Members of Parliament representing the Rajya Sabha, of which only a maximum of two shall belong to the ruling party, to be nominated by the Central Government, in such manner as may be prescribed — Member; and

(vii) the Finance Secretary, Government of India, Secretary of the Committee, *ex-officio*;

(2) The Central Government shall appoint such officers and staff, from the Ministry of Finance, Government of India, to assist the Committee, in such manner as may be prescribed.

**9.** (1) All Members, Officers and staff of the Committee shall work on an honorary basis and shall not be entitled to any salary.

Terms and conditions of service of the Members, Officers and staff of the Committee.

(2) The Committee shall compulsorily meet once every fifteen days at the head office, in such manner as may be prescribed.

(3) Any and every expenditure incurred towards the working of the Committee shall be borne by the Ministry of Finance, Government of India.

(4) Members of Parliament shall be entitled for reimbursement of flight ticket expenses incurred by them for attending the meetings of the Committee.

(5) All decisions of the Committee shall be taken by a simple majority.

**10.** The Central Government shall, if it deems fit, after due appropriation made by Parliament by law in this behalf, provide adequate funds for the implementation of the provisions of this Act.

Central Government to provide funds.

**11.** The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act.

Act not in derogation of any other law.

**12.** (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.



## STATEMENT OF OBJECTS AND REASONS

The amount of black money held abroad by Indians has seen an exponential rise over the years. This amount, when recovered can be utilised to improve the quality of life of each and every citizen of India.

In view of this, there is need to enact an integrated legislation in this regard so that the amount is recovered by the Government of India and it finally reaches every citizen of India with proper oversight. Any remaining amount shall be distributed between the States for their development.

This Bill seeks to recover all black money held abroad illegally by Indian citizens and utilise the same towards the development of the nation.

Hence, this Bill.

M. MOHAMED ABDULLA

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the formulation and implementation of the National Policy for Black Money Recovery by the Central Government. Clause 4 provides that the Central Government shall constitute a Public Fund for depositing the recovered black money. Clause 6 provides for the constitution of a Management Committee to monitor, supervise and coordinate the distribution of the recovered black money. Clause 9 provides for the terms and conditions of service of the Members, officers and staff of the Managing Committee whereby Members of Parliament shall be reimbursed towards the flight ticket expenses incurred by them to attend the Committee meetings. Clause 10 provides that the Central Government shall provide adequate funds for carrying out the purposes of the Bill.

The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees five hundred crore may involve as one-time non-recurring expenditure from the Consolidated Fund of India.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO. XXXII OF 2023

*A Bill to provide for prohibition of crimes in the name of honour, unlawful assemblies and other conduct interfering with the freedom of marriage and association and to provide justice, compensation and rehabilitation in crimes committed in the name of honour in the interest of protecting individual liberty and preventing victimization and for the matters connected therewith or incidental thereto.*

BE it enacted by the Parliament in the Seventy-fourth Year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

Short title and commencement. **1.** (1) This Act may be called the Freedom of Marriage and Association and Prohibition of Crimes in the Name of Honour Act, 2023.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. (1) In this Act, unless the context otherwise requires,—

Definitions.

(a) 'accused' is any person or persons, whether they are members of the victim's family, member of the victims' community, caste, clan, race, tribe or indigenous community, member of any religious council, or caste panchayat or katta panchayat, (by whatever name called) or participates, abets, finances or incites or is hired to commit such an act as is prohibited under this Act;

(b) "appropriate Government" means,—

(i) in relation to a Union territory, the Central Government; and

(ii) in relation to a State, the Government of that State;

(c) "association" means any association of a person with another person of any sex or gender, as a partner, friend, companion, or having a relationship with another person, and includes any interactions or meetings with another person;

(d) "caste panchayats" or "community panchayats" means any caste or religious community groups of persons of the same lineage, religion or caste, registered or not, which may be called by another name or description including Khap panchayats or a 'gavki', which control the personal and social behavior of any member and collectively pass orders without any legal authority against persons for acts of marriage and association with a person based on caste, religion, gotra, or against the wishes of the community members, by issuing oral or written dictums;

(e) "child" means any person below the age of eighteen years;

(f) "couple" means persons who intend to exercise the right to freedom of marriage and association, as per the provisions of this Act;

(g) "katta panchayats" means local groups that assemble and issue unlawful punishments against persons and are not necessarily based on caste hierarchies;

(h) "marriage" includes a marriage that has been solemnized or registered or is proposed or intended to be solemnized or registered;

(i) "person" means any person who has completed eighteen years of age;

(j) "practices in the name of honour" means a collection of practices used predominantly to control the behaviour of victims, especially but not limited to women and girls, within families or castes, in order to protect supposed cultural, religious and traditional beliefs, values and social norms in the name of honour;

(k) "safe house" means a safe house established by the appropriate Government as per section 28 of this Act;

(l) "social and economic boycott" includes all such acts that may lead to the boycott or enforcement of social or economic sanctions on the couple or married or associated persons, and includes the following acts, namely:

(i) pressurizing, coercing, threatening them or their dependents, relatives, families or their communities to leave the settlement, household, village or area of residence concerned;

(ii) refusing to permit a person to render to other person or receive from them any customary service or to abstain from social relations that one would maintain with other person or to isolate them from others;

(iii) indulging in any conduct which will impede or is likely to impede, access to markets, community facilities, places of worship or any other necessities of life;

(iv) attempting or threatening to divest or dispossess the couple or their families of any rights to any land or property and / or imposition of fine or penalty of any kind;

(v) refusing to deal with, work for hire or do business with them;

(vi) denying opportunities including access to services or contractual opportunities for rendering service for consideration or refusing to do anything on the terms on which things would be commonly done in the ordinary course of business;

(vii) abstaining from any professional or business relations with them;

(viii) preventing or obstructing the victim from observing any social or religious custom or usage or ceremony or from taking a part in a social, religious or community functions, congregation, assembly, meeting or procession;

(ix) refusing the right to perform marriage, funeral or other religious ceremonies and rites which the members of the victim's own community usually and ordinarily perform;

(x) shunning or refusing to engage in the society or cut social or commercial ties off with the victim or the victim's family;

(xi) preventing or obstructing access to or usage of any place used or intended to be used for a charitable, religious or public purpose;

(xii) preventing or obstructing from having access to or using the facilities of any school, educational institution, medical institution, community hall, club hall, cemetery, burial ground or any other place used by, or intended to be used by, or for the benefit of the victim's community; or any other public place;

(xiii) inciting or provoking or encouraging any member of the community, directly or indirectly, to sever social, religious, professional or business relations with the victim or their family or members of their community;

(xiv) preventing or obstructing from entering, lodging in or otherwise using any place of worship or pilgrimage, which is ordinarily open to the members of the victim's community;

(xv) creating or causing to create cultural obstacle or compel the victim to wear any particular type of clothes or use any specific language;

(xvi) expelling or causing to expel the victim from their community; and

(xvii) committing any other similar acts which amount to social boycott;

(m) "special cell" means the special cells established under section 33 of this Act;

(n) "victim" means any individual, including a minor, who has suffered any physical, mental, psychological, emotional, or monetary harm in relation to marriage or association under this Act and includes the victim's family members, guardians, dependants or any one supporting or sympathizing with the victim (s).

(2) The words and expressions used but not defined in this Act but defined in the Indian Penal Code, 1860 (hereinafter referred to as the Indian Penal Code), as the case may be, shall be deemed to have the meanings as respectively assigned to them in that enactment. 45 of 1860.

## CHAPTER II

### FREEDOM OF MARRIAGE AND ASSOCIATION

Right to  
freedom of  
marriage and  
association.

3. (1) All persons in addition to the right to life, the right to liberty and freedom of expression guaranteed under articles 21 and 19 of the Constitution, shall have the right to freedom of marriage and association, movement and bodily autonomy, including the right to choose their own partners, the right to marry or to associate with any person of their choice.

(2) The consent of a person's family, religious community, caste or clan shall not be a condition precedent for any adult individual to enter into a marriage or a relationship.

(3) All persons shall have the right to marry any person, irrespective of caste, religion, tribe, indigenous status, community or gender identity and there shall be no interference therein by anyone.

(4) Any action to prevent or interfere with the exercise of the rights referred to in this section by any person or a group of persons shall be an offence under the provisions of this Act.

4. Any couple desirous of marrying or being in a relationship with each other or associating with each other may declare their age and willingness to be together, orally or in writing to the District Magistrate having appropriate jurisdiction or any nodal officer designated for this purpose by the District Magistrate, who on receipt of such information shall send it to the nearest police station and no action shall be taken by the police and/or any other authority either *suo-motu* or at the instance of any party, including the family members or relatives or community members of either party or any third party, against the said couple.

Declaration of intention to be together by a couple.

### CHAPTER III

#### PROHIBITION OF CRIMES IN THE NAME OF HONOUR

5. (1) No person or persons shall commit any acts or practices in the name of honour or any caste, culture, custom, religion, tradition, against any couple on the ground that they have transgressed cultural, religious, social or traditional norms or customs.

Prohibition of crimes in the name of honour.

(2) Such acts, including but not limited to the following acts, shall amount to crimes in the name of honour:—

- (i) forcibly declaring the couple who have got married as brother and sister;
- (ii) excommunication, ostracization or forcible removal or displacement or eviction of the couple or their family or relatives from the village, town or area they live in;
- (iii) abducting or kidnapping the victim and / or anyone associated with them;
- (iv) asking the couple or anyone associated with them or harbouring them to pay a fine;
- (v) imposing social and economic boycott on the couple or their families or anyone associated with them;
- (vi) harassing the couple or either of them not to meet or associate with or live with each other, either physically or through any means of communication;
- (vii) threatening the couple or either of them or their family or anyone associated with them of retributive action of any kind whatsoever;
- (viii) causing physical harm or injury to the couple or either of them or anyone connected or related with them;
- (ix) individually or collectively exhorting or pressurizing or causing psychological trauma directly or indirectly upon any person or persons to prevent or disapprove of the marriage or association of the couple, or generating an environment of hostility towards such couple or either of them or their supporters;
- (x) confining any person illegally, or placing them under house arrest;
- (xi) confiscating a person's phone, laptop and any other means of communication, or certificates, documents, identity proofs or, other important personal effects;
- (xii) freezing the bank accounts of the couple or either of them;

(xiii) causing the termination of job of the couple or either of them by their employer;

(xiv) publishing any defamatory and false material or information about the couple in print or online media including social media and Whatsapp;

(xv) committing an act of sexual violence or sexual harassment against the couple or either of them;

(xvi) forcing or causing an abortion or miscarriage of the woman in such relationship;

(xvii) forcing the couple or either of them to marry against their consent;

(xviii) forcefully dissolving the marriage of the couple against their consent;

(xix) abusing the couple or either of them with an intent to humiliate, using caste names in public;

(xx) raising funds for promoting or attempting to commit or committing crimes under this Act;

(xxi) spreading or inciting hate through oral/technological/written means;

(xxii) parading the victim naked or semi-naked or making them wear a garland of slippers/sandals through the village, or disrobing them, tying up and hitting them, or their family members or anyone supporting them or connected to them;

(xxiii) forcibly making them consume urine or faeces;

(xxiv) burning the house or crops or properties of the victim(s), breaking or damaging properties belonging to them, or encroaching or forcefully occupying their properties;

(xxv) causing disturbance or disruption in places of employment and education of the couple or either of them;

(xxvi) publicly humiliating and degrading the couple or persons associated with them;

(xxvii) preventing any person from exercising their right of marriage and association as provided in section 3 of this Act;

(xxviii) committing any atrocity as defined under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989; and

33 of 1989.

(xxix) committing any other act or acts of harassment or intimidation, whether physical or mental or psychological against any couple, or persons supporting them.

Prohibition of unlawful assembly.

**6.** No group of five or more persons shall gather, assemble or congregate at any time with the view or intention to deliberate on, or condemn or prevent any marriage or association of any person or persons or punish any person or persons involved therein on the ground that such marriage or association has dishonoured the caste, tribe, indigenous status, community, religion, tradition or is against the wishes of the family or community including marriage or association of persons whose sexual orientation or gender identity is not accepted by their family or community.

Power of court to issue injunctions.

**7.** (1) Notwithstanding anything to the contrary contained in this Act, if, on an application or complaint from any person or persons, a Judicial Magistrate of the first class or a Metropolitan Magistrate or a Special Fast Track Court, is satisfied that a crime in the name of honour, as described in section 5, has been committed or is about to be committed, the Magistrate shall issue an injunction against any person or persons including a caste panchayat to restrain them from committing such act and providing protection to the persons against whom such acts were or are intended to be committed.



(2) A complaint under sub-section (1) may be made by any person or organization having knowledge or information or reason to believe relating to the likelihood of a crime in the name of honour taking place.

(3) The Court of the Judicial Magistrate of the first class or the Metropolitan Magistrate or the Special Fast Track Court may also take *suo motu* cognizance on the basis of any reliable report or information received:

Provided that in the case of any urgency, the Court shall have the power to issue an *ad-interim* and *ex-parte* injunction or order or direction, without giving any notice under this section.

(4) An injunction, order or direction issued under sub-section (1) may be confirmed or vacated after giving notice and hearing the party against whom the injunction was issued.

(5) Whoever knowing that an injunction has been issued under sub-section (1) against them, disobeys such injunction shall be punishable with imprisonment of either description for a term which may extend to two years or with fine which may extend to one lakh rupees or with both:

Provided that no woman shall be punishable with imprisonment.

(6) The appropriate Government may confer such powers and impose such duties on the District Magistrate or any other authorities, as may be necessary to ensure that the provisions of the Act are properly carried out.

#### CHAPTER IV

##### PUNISHMENT FOR OFFENCES

**8.** Whoever commits any crime in the name of honour as defined in section 5, shall be punishable with imprisonment for a term not less than five years and shall also be liable to fine, which may extend to five lakh rupees.

Punishment  
for  
crimes in the  
name of  
honour.

**9.** Whoever causes death, through any means or commits any such act that results in death of a couple or either of them or any other person associated or related to them in the name of honour, shall be punished with rigorous imprisonment for life and with a minimum fine of ten lakh rupees or confiscation of property of similar value.

Punishment  
for causing  
death in the  
name of  
honour.

**10.** (1) Whoever causes hurt to a couple or either of them in the name of honour shall be punished with rigorous imprisonment for a term which shall not be less than three years, but which may extend to five years and with fine which may extend to three lakh rupees.

Punishment  
for hurt or  
grievous hurt.

(2) Whoever causes grievous hurt, including loss of limb and causing disability, to a couple or either of them in the name of honour shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life and with fine which may extend to five lakh rupees.

*Explanation.*—The expressions 'hurt' or 'grievous hurt' shall have the same meaning as is given to it in sections 319 and 320 of the Indian Penal Code.

**11.** Any person or persons participating in any unlawful assembly as described in section 6, either directly or indirectly, shall be punishable with imprisonment for a term not less than six months but which may extend to five years and shall also be liable to fine which may extend to one lakh rupees.

Punishment  
for  
participation  
in  
unlawful  
assembly.

**12.** Whoever, including any member of an unlawful assembly indulges in criminal intimidation of any couple or either of them or their family members or supporters, for their marriage or association or with the intention to cause their separation, shall be punishable with imprisonment for a term not less than three years but which may extend to five years and shall also be liable to fine which may extend to five lakh rupees:

Punishment  
for  
criminal  
intimidation.

Provided that if the threat be to cause harm or injury of the description referred to in the second part of section 506 of the Indian Penal Code, the maximum imprisonment shall extend to seven years.

*Explanation.*—The expression 'criminal intimidation' shall have the same meaning as is given to it in section 503 of the Indian Penal Code.

Offence under the Indian Penal Code.

**13.** Whoever commits any offence under this Act being a crime in the name of honour, which is also an offence under the Indian Penal Code (45 of 1860) punishable with imprisonment of ten years or more, shall be punishable with imprisonment for life.

Application of certain provisions of the Indian Penal Code.

**14.** Subject to the other provisions of this Act, the provisions of section 340, section 351, section 354, section 355, section 357, section 359, section 326A, and section 312 of the Indian Penal Code, shall, so far as may be, apply for the purposes of this Act as they apply for the purposes of the Indian Penal Code.

Power of Court to grant compensation.

**15.** When the Court imposes a sentence of fine or a sentence of which fine forms a part, the Court shall when passing the judgment, order the whole or any part of the fine recovered to be paid as compensation to any person or persons for any loss or injury caused by the offence.

Punishment for causing disappearance of evidence of offence, or giving false information to screen offender.

**16.** Whoever knowingly or having reason to believe that an offence has been committed under this Act, causes any evidence of the commission of that offence to disappear with the intention of screening the offender from legal punishment, or with that intention gives any information regarding the offence which they know or believe to be false, shall be punishable with the punishment provided for that offence.

Abetment of an offence.

**17.** A person abets an offence under this Act, who—

*First.*—Instigates any person to do that offence; or

*Secondly.*—Engages with one or more person or persons in any conspiracy for the doing of that offence, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that offence; or

*Thirdly.*—Intentionally aids, by any act or illegal omission, the doing of that offence.

*Explanation. 1*—A person who, by willful misrepresentation, or by willful concealment of a material fact, which is bound to disclose, voluntarily causes or procures, or attempts to cause or procure a thing to be done, is said to instigate the doing of that offence.

*Explanation. 2*—Whoever, either prior to or at the time of commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

*Explanation. 3*—Whoever employs, harbours, receives or transports a victim, by means of threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or of a position, vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of any offence under this Act, is said to aid the doing of that act.

*Explanation. 4*—The expressions 'abetment' and 'conspiracy' shall have the same meaning as is given to it in sections 107 and 120A of the Indian Penal Code.

Punishment for abetment.

**18.** Whoever abets any offence under this Act, if the act abetted is committed in consequence of the abetment, shall be punished with punishment provided for that offence.

*Explanation.*—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy or with the aid, which constitutes the abetment.

**19.** Whoever attempts to commit any offence punishable under this Act or to cause such an offence to be committed, and in such attempt, does any act towards the commission of the offence, shall be punished with imprisonment of any description provided for the offence, for a term which may extend to one half of the imprisonment for life or, as the case may be, one-half of the longest term of imprisonment provided for that offence or with fine or with both.

Punishment for attempt to commit offence.

**20.** (1) Every person committing any of the offences under this Chapter shall be presumed to have also intended to commit or abet the commission of offences under this Act.

Presumption as to offences.

(2) In a prosecution for an offence under this Chapter, if it is proved that—

(a) the accused rendered any financial assistance in relation to the offences committed by a person accused of, or reasonably suspected of, committing, an offence under this Chapter, the Court shall presume, unless the contrary is proved, that such person had abetted the offence;

(b) a group of persons committed an offence under this Chapter and if it is proved that the offence committed was a sequel to any existing dispute regarding marriage or association of any person, it shall be presumed that the offence was committed in furtherance of the common intention or in prosecution of the common object; and

(c) if any person or persons intending to marry or associate or having solemnized the marriage, is or are murdered or are forcibly separated or face violence or any crimes under this Act, it will be presumed that the family members of the victim have committed the offence, unless explicitly stated otherwise in front of the Judicial Magistrate of first class by the victim themselves.

**21.** Where any person(s) is prosecuted for offences under this Act, the burden of proving that he or she or they have not committed the offence or offences under the said sections shall be on him or her or them.

Burden of proof.

20 of 1974.

**22.** Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (hereinafter referred to as the Code of Criminal Procedure) all offences under this Act shall be cognizable, non-bailable and non-compoundable.

Offences to be cognizable, non-bailable and non-compoundable.

## CHAPTER V

### RIGHTS OF VICTIMS AND WITNESSES

**23.** The identity and addresses of the victims and the complainants shall not be published, communicated or made known to the public, press and media in any manner including social media platforms:

Confidentiality of the victims and complainants.

Provided that such information may be disseminated regarding the justice secured to any victim under this Act without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the victim(s) and witnesses.

**24.** (1) It shall be the duty and responsibility of the appropriate Government to make arrangements for the protection of victims, their dependents, and witnesses against any kind of intimidation or coercion or inducement or violence or threats of violence, under this Act.

Rights of victims and witnesses.

(2) A victim or their dependent shall have the right to reasonable, accurate, and timely notice of any Court proceeding including any bail proceeding and the Public Prosecutor or the State Government shall inform the victim about any proceedings under this Act.

(3) A victim or their dependents shall be entitled to be heard at any proceeding under this Act in respect of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written submission on conviction, acquittal or sentencing.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, the Court trying a case under this Act shall provide to a victim, their dependents, informant or witnesses—

(a) complete protection to secure the ends of justice;

(b) travelling and maintenance expenses during investigation, inquiry and trial; and

(c) social-economic rehabilitation during investigation, inquiry and trial including relocation where necessary.

(5) The Court shall periodically review the protection being offered to victims and witnesses and pass appropriate orders to modify any protection measures, if necessary.

(6) The Court may, on an application made by a victim, informant or witness in any proceedings before it or by the Public Prosecutor in relation to such victim, informant or witness or on its own motion, take such measures including but not limited to:

(a) concealing the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to the public;

(b) issuing directions for non-disclosure of the identity and addresses of the witnesses;

(c) providing relocation to the victim and/or witnesses; and

(d) take immediate action in respect of any complaint relating to harassment of a victim, informant or witness and on the same day, if necessary, pass appropriate orders for their protection.

(7) It shall be the duty of the Investigating Officer and the Station House Officer to record the complaint of the victim, informant or witnesses against any kind of intimidation, coercion or inducement or violence or threats of violence, whether given orally or in writing, and a photocopy of the First Information Report shall be immediately given to them free of cost.

(8) The police shall ensure that there shall be no destruction of evidence in any manner in all crimes and First Information Report registered under this Act.

(9) It shall be the right of the victims or their dependents, to take assistance from the Non-Governmental Organizations, social workers or advocates.

Victim  
Compensation  
Scheme.

**25. (1)** It shall be the duty of the appropriate Government to frame a scheme, to be known as the Victim Compensation Scheme, for protection and rehabilitation of victims and witnesses under this Act.

(2) Such scheme may include provision of immediate relief to the victims, in the form of cash or kind, and may also include,—

(i) provision of relief in respect of death or injury or damage to property;

(ii) arrange food or water or clothing or shelter or medical aid or transport facilities or daily allowances to victims;

(iii) ensure that these shelters and transport facilities are accessible to persons with disability;

(iv) ensure that these resources are provided to the victims and witnesses without discrimination on the basis of caste, gender, disability, religion, sexual orientation, gender identity or age;

(v) provision of maintenance expenses to victims; and

(vi) provision of protection to victims or their dependents and witnesses from intimidation and harassment and any other measures.

(3) Such a scheme may also ensure that the child of a couple killed in the name of honour is fairly compensated and rehabilitated as determined by the Court.

**26.** The appropriate Government shall, in co-ordination with the Central Government, as the case may be, in pursuance of the Victim Compensation Scheme, provide funds for the purpose of payment of compensation to the victim or their dependents, who have suffered loss or injury as a result of commission of crimes in the name of honour under this Act, subject to applicability of the provisions of section 357A of the Code of Criminal Procedure.

Victim  
Compensation  
Fund.

## CHAPTER VI

### POSITIVE OBLIGATIONS AND DUTIES

**27. (1)** Any person(s) can make complaints, file representations or submit letters to the Sub-Divisional Magistrate or the jurisdictional police seeking protection against any unlawful assembly or against any other person who have been or are likely to object to any marriage or association or commit crimes in the name of honour as referred to under this Act.

Power to  
prohibit  
certain acts  
and take  
preventive  
measures.

(2) Upon receiving such complaint or representation, the Sub-Divisional Magistrate or District Magistrate shall immediately and not later than six hours take appropriate steps to provide protection to the said person(s), and shall give appropriate directions for the same to the police.

(3) On receipt of such a complaint, or request for protection, as per sub-section (2), the police shall immediately and not later than six hours, provide protection and safety measures to the said persons, in such manner as they deem fit, but not limited to providing a shelter home or by any other means.

(4) The Sub-Divisional Magistrate or the District Magistrate shall be in direct supervision of the protection and safety of the persons concerned and shall supervise the same.

(5) On receipt of information about any proposed unlawful assembly or gathering of a caste panchayat or community panchayat or a katta panchayat in respect of crimes in the name of honour, to be committed against any victim(s),—

(a) a police officer or any officer of the District Administration, shall, forthwith intimate the jurisdictional Deputy Superintendent of Police and Superintendent of Police;

(b) on receiving such information, the Deputy Superintendent of Police (or such senior police officer as identified by the State Governments with respect to the area or district) shall immediately communicate to the members of the caste panchayat that convening of such meeting or gathering is not permissible and prohibit from going ahead with such a meeting, and shall also issue appropriate directions to the Officer in-charge of the jurisdictional police station to be vigilant and, if necessary, to deploy adequate police force for prevention of unlawful assembly of the proposed gathering;

(c) the Sub-Divisional Magistrate or District Magistrate shall immediately issue an order prohibiting the convening of such unlawful assembly and the doing of any act towards the commission of any offence under this Act by any person in any area specified thereunder and such order shall be immediately published in a local newspaper and delivered to such persons of the said unlawful assembly;

(d) the Sub-Divisional Magistrate or District Magistrate shall take such steps as may be necessary to give effect to such order(s) including directions to the police authorities concerned;

(e) the District Magistrate shall also take such steps as may be necessary to ensure the safety of the victims as to the illegal decisions taken by the unlawful assembly;

(f) whoever contravenes any order made under sub-section (4) shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years and with fine;

(g) if the Deputy Superintendent of Police has reason to believe that the assembly or gathering cannot be prevented and/or is likely to cause harm to the potential victims, he or she shall forthwith submit a proposal to the District Magistrate or Sub-Divisional Magistrate of the District or the Competent Authority of the concerned area for issuing orders to take preventive steps under the provisions of the Code of Criminal Procedure including by invoking prohibitory orders under section 144 thereof and causing arrest of the participants in the assembly under section 151 thereof;

(h) despite the preventive measures taken by the police, if any unlawful assembly takes place and any such assembly or caste panchayat or khap panchayat passes any diktat to take action against the victims and/or their family members, the Officer in-Charge of the police station having jurisdiction shall cause to lodge a First Information Report immediately under the provisions of this Act and the appropriate provisions of the Indian Penal Code including sections 141, 143, 503 and 506 thereof;

45 of 1860.

(i) upon registration of First Information Report, intimation shall be simultaneously given to the Superintendent of Police/ Deputy Superintendent of Police;

(j) the District Magistrate or Superintendent of Police shall deal with the complaint regarding threat administered to such couple or family with utmost sensitivity and if necessary, provide them with logistical support for solemnizing their marriage and/or for being duly registered under police protection, if they so desire;

(k) after the marriage, if the couple so desire, in addition to adequate protection, they can be provided accommodation on payment of nominal charges in a safe house initially for a period of one month to be extended on a monthly basis but not exceeding one year in aggregate, depending on their threat assessment on a case-to-case basis;

(l) the initial inquiry regarding the complaint received from the couple or upon receiving information from any other source that the relationship or marriage of such couple is opposed by their family members or local community or caste panchayat shall be entrusted by the District Magistrate or Superintendent of Police to an officer not below the rank of Additional Superintendent of Police and such officer shall conduct a preliminary inquiry in order to ascertain the authenticity, nature and gravity of threat and shall immediately submit a report to the Superintendent of Police not later than seven days of receipt of the complaint; and

(m) the Superintendent of Police, upon receipt of such report, shall direct the Deputy Superintendent of Police in-charge of the concerned sub-division to cause to register a First Information Report against the persons threatening the couple(s)/ victims and, if necessary, may also invoke section 151 of the Code of Criminal Procedure and the Deputy Superintendent shall also personally supervise the progress of investigation and ensure that the same is completed and charge sheet is filed within thirty days of receipt of the report.

(6) In a case where the victim(s) has/have been killed in the name of honour, as defined under section 9 of this Act, the District Magistrate and the Superintendent of Police shall ensure that:—

(a) an intimation be given to the National Human Rights Commission within twenty-four hours of their death;



(b) a post-mortem be conducted of the body and the post-mortem report along with videography and Magisterial Inquest Report, be submitted to the Special Fast Track Court within thirty days of the incident; and

(c) the body of the deceased is neither disposed off nor the last rites for the victim(s) performed without the written consent of the victim's family.

(7) The appropriate Government shall be responsible for creating and maintaining a post of Mental Health Counsellor, who may be a mental health professional, mental health nurse or a psychiatric social worker at the Special Cells as described under section 33 of this Act and in the safe houses as described under section 28 of this Act, for providing counseling to victim(s) who may have been threatened or harmed in any way defined under this Act, and the appointment and terms of conditions of service of such counselors shall be in such manner as may be prescribed.

(8) Every official called upon to act in terms of the above provisions shall be accountable for their lapses, omissions or failures and the appropriate Governments shall provide for and take such action against them as may be deemed fit for their lapses, omissions or failure to act, under the provisions of this Act.

**28.** It shall be the duty of the appropriate Government to:—

Protection Measures and safe houses.

(a) establish a safe house at each District Headquarter for persons seeking protection against crimes in the name of honour and ensure that such safe houses be placed under the supervision of the jurisdictional District Magistrate and Superintendent of Police in a manner as may be prescribed;

(b) ensure that the couple are able to stay together in the safe house, with access to facilities to meet with their lawyers or members from any Non-Governmental Organizations providing them support and assistance;

(c) take steps to provide security to the couple or family and, if necessary, to remove them to a safe house within the same district or elsewhere keeping in mind their safety; and

(d) ensure that in cases requiring immediate medical attention, any woman or transgender person(s) needing special assistance are provided the same, including from the One Stop Centres established by the Ministry of Women and Child Development.

43 of 1954.

**29.** (1) Any failure by either the police or district officer or officials, including Marriage Officers appointed under the Special Marriage Act, 1954, to comply with the, provisions of this Act shall be considered as an act of deliberate negligence and/or misconduct for which departmental action shall be taken under the relevant service rules which shall be completed within six months of the incident, in such manner as may be prescribed.

Accountability measures.

(2) In addition to imprisonment for a term which shall not be less than six months but which may extend to one year, disciplinary action shall be taken against the concerned officials if it is found that—

(i) such official(s) did not prevent the incident, despite having prior knowledge of it, or

(ii) where the incident has already occurred, such official(s) did not promptly apprehend and institute criminal proceedings against the culprits.

**30.** (1) All village officers and such other officers as may be specified by the District Magistrate in relation to any area and the inhabitants of such area shall, if they have reason to believe or have the knowledge that any of the offences mentioned under this Act are about to be, or have been committed in the area shall mandatorily report such fact to the nearest police station forthwith.

Mandatory reporting.

(2) It shall be the duty of all State Government officers and Central Government officers to assist the police in implementing the provisions of this Act or any rule or order made thereunder.

(3) Whoever contravenes the provisions of this section shall be punishable with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.

Appointment  
of State Nodal  
Officer.

**31. (1)** The State Government shall nominate a nodal officer not below the rank of a Secretary to the State Government, for coordinating the functioning of the District Magistrates and Superintendent of Police or the officers authorized by them responsible for implementing the provisions of the Act.

(2) The nodal officer shall at the end of every quarter, review the status of cases registered under this Act; various measures adopted for providing immediate relief in cash or kind or both to the victims or their dependents; adequacy of immediate facilities like rationing, clothing, shelter, legal aid, travelling allowance, daily allowance, and transport facilities provided to the victims or his/her dependents; performance of Non-Governmental Organizations, the Special Cell, various committees and the public servants responsible for implementing the provisions of the Act, and accordingly prepare a report which shall be submitted to the State-level Monitoring Committee, in such form and manner as may be prescribed.

Duties of the  
appropriate  
Government  
to ensure  
effective  
implementation  
of the Act.

**32. (1)** The appropriate Government shall forthwith identify such districts, sub-divisions and/or villages where instances of crimes in the name of honour or assembly of caste panchayats have been reported in the last five years.

(2) The Secretary, Ministry of Home Affairs in the appropriate Government shall issue directions to the Superintendent of Police of the concerned Districts for ensuring that the Officers in-charge of the police stations of the identified areas are extra cautious if any instance of inter-caste or inter-religious marriage within their jurisdiction comes to their notice.

(3) The Central Government shall designate a nodal Ministry to oversee, supervise and monitor the effective implementation of this Act.

(4) The Ministry of Home Affairs, Government of India shall, in coordination with the State Governments, take necessary measures to create awareness and sensitize law enforcement agencies, government departments, the police, Judges and Special Public Prosecutors on the provisions of this Act and also for the prevention of crimes in the name of honour.

(5) The Ministry of Home Affairs, Government of India shall in co-ordination with the State Government, take necessary measures to create awareness for the prevention of crimes in the name of honour, and inclusion of such topics in the school curriculum and textbooks in the public education system, media, and other forms for spreading awareness.

(6) Subject to such rules as the Central Government may make in this behalf, the State Government shall take such measures as may be necessary for the effective implementation of this Act, including—

(a) provision for adequate facilities, including legal aid, to the persons subjected to honour crimes to enable them to avail themselves of justice;

(b) provision for travelling and maintenance expenses to victims and witnesses in honour crimes during investigation and trial of offences under this Act; and

(c) provision for a periodic survey of the working of the provisions of this Act with a view to suggesting measures for the better implementation of the provisions of this Act.



**33.** (1) The appropriate Government shall establish a Special Cell in every District comprising the Superintendent of Police and the District Social Welfare Officer, for prevention of crimes in the name of honour and to receive petitions or complaints from victims regarding infringement of the right of freedom of marriage and association, as described in section 3 of this Act.

Establishment  
of Special  
Cells.

(2) These Special Cells shall establish a dedicated 24-hours telephone and e-mail helpline to receive and register such complaints and to provide necessary assistance/advice and protection to the couple.

**34.** (1) The Chief Minister of a State, and the Administrator of a Union Territory, shall establish in their State or Union Territory, as the case may be, a Committee to be known as a State-level Monitoring Committee, to review the implementation of the provisions of the Act, relief and rehabilitation facilities provided to the victims and other matters connected therewith, prosecution of cases under the Act, role of different officers or agencies responsible for implementing the provisions of the Act and various reports received by the State Government or the Union Territory administration.

State-level  
Monitoring  
Committees.

(2) The State-Level Monitoring Committee shall consist of:

(i) the Chief Minister of the State, or the Administrator of the Union Territory, as the case may be, Chairman, *ex-officio*;

(ii) the Minister of Home Affairs in the State Government—Member, *ex-officio*;

(iii) the Minister of Women and Child Development in the State Government—Member, *ex-officio*;

(iv) five elected Members of Parliament from that State to be appointed or nominated Members, in such manner as may be prescribed;

(v) five elected Members of the State Legislative Assembly and Legislative Council if any, to be appointed or nominated as Members, in such manner as may be prescribed;

(vi) The Commissioner of Police of the State—Member, *ex-officio*;

(vii) The Chief Secretary, Department of Women and Child Development of the State Government—Member, *ex-officio*; and

(viii) three representatives of Non-Governmental Organisations working in the field of crimes in the name of honour to be appointed or nominated as Members, in such manner as may be prescribed.

(3) The State-level Monitoring Committee shall meet at least once in six months.

**35.** (1) In each district within the State or the Union Territory, as the case may be, the District Magistrate shall set up a District-Level Monitoring Committee, to review the implementation of the provisions of the Act, relief and rehabilitation facilities provided to the victims and other matters connected therewith, prosecution of cases under the Act, role of different officers or agencies responsible for implementing the provisions of the Act and various reports received by the regional administration.

District-level  
Monitoring  
Committees.

(2) The District-level Monitoring Committee shall consist of the District Magistrate, Deputy Superintendent of Police, the Director of the District Legal Services Authority and three members having association with Non-Governmental Organizations, appointed or nominated thereto, in such manner as may be prescribed.

(3) The District Level Monitoring Committee shall meet at least once every three months.

**36.** (1) The appropriate Government, may after consultation with the concerned High Court, by notification, designate a District Court as Special Fast Track Court for the purpose of trying the cases pertaining to crimes in the name of honour and offences under this Act.

Special Fast  
Track Courts.

(2) Such Special Fast Track Court shall exercise all jurisdiction exercisable by the District Court under any law for the time being in force in respect of any proceedings under this Act.

(3) The appropriate Government shall, after consultation with the High Court, by notification, extend, reduce or alter the local limits of the area to which the jurisdiction of the Fast Track Court extends.

(4) The concerned District judge presiding over a designated Special Fast Track Court shall receive prior training on this Act, in such manner as may be prescribed.

(5) For every Special Fast Track Court, the appropriate Government shall, by notification in the Official Gazette, specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that court.

(6) Where an application is made by a victim seeking the appointment of a particular Special Public Prosecutor, the same may be considered and allowed by the Special Fast Track Court, in a manner as may be prescribed.

Procedure of  
Special Fast  
Track Courts.

**37. (1)** The Special Fast Track Court may take cognizance of any offence without the accused being committed to it for trial upon receiving a complaint of facts which constitutes such offence or upon a police report of such facts.

(2) While framing charges under this Act, the Court may also frame charges under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, the Protection of Women from Domestic Violence Act, 2005, any provision of the Indian Penal Code, as the case may be, and under any other special legislations, if the facts disclose the commission of an offence under those provisions.

33 of 1989.  
45 of 2005.

(3) The Special Fast Track Court shall try cases in-camera and the trial must proceed on a day-to-day basis to be concluded, preferably within three months from the date of filing of charge sheet/final report.

(4) If, during the course of any trial of any offence under this Act, it is found that the accused person has committed any other offence under this Act or any other law, the notified Court may convict such person of such other offence also and pass appropriate sentence authorized by that law.

(5) A victim or their dependent shall have the right to apply to the Special Fast Track Court to summon parties for production of any documents or material, witnesses or examine the persons present.

(6) A victim or their dependent shall be entitled to be heard at any proceeding under this Act in respect of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written submission on conviction, acquittal or sentencing.

**38. (1)** Notwithstanding anything contained in the Code of Criminal Procedure, or in any other law, an appeal shall lie from every judgment or order under this Act to the High Court.

(2) Every appeal under this section shall be preferred within a period of thirty days from the date of the judgment or order under this Act.

(3) Except as aforesaid, no appeal or revision shall lie to any Court from any judgment, order or decree under this Act.

(4) An appeal preferred under sub-section (1) shall be heard by a Bench consisting of two or more Judges.

Annual  
Report.

**39. (1)** The State Government shall every year, before the first day of July, prepare and furnish a report to the Central Government about the measures taken for implementing the

provisions of the Act and various schemes and plans framed by it during the previous calendar year.

(2) The Central Government shall cause, a report on the measures taken by itself and by the State Governments in pursuance of the provisions of this section, to be laid, every year, before each House of Parliament.

**40.** The Central Government shall issue directions to the National Crime Records Bureau to collect and include data on the crimes committed in the name of honour in its annual report.

Inclusion of data on honour crimes in Annual Report of National Crime Records Bureau.

**41.** The appropriate Government shall after due appropriation by the Parliament or the State Legislatures, as the case may be, provide funds for the effective implementation of the provision of this Act.

Appropriate Government to provide funds.

## CHAPTER VII

### MISCELLANEOUS

**42.** Save as otherwise provided in this Act, the provisions of the Code of Criminal procedure, 1973 shall apply to the proceedings under this Act.

2 of 1974.

Application of Code of Criminal Procedure, 1973.

**43.** Any reference in this Act to any enactment or any provision thereof shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law, if any, in force in that area.

Application of other laws.

**44.** Save as otherwise provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom or usage or any instrument having effect by virtue of any such law.

Act to override other laws.

**45. (1)** The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

Crimes and violence in the name of honour affect caste-marginalised communities, religious minorities and the LGBTQI communities disproportionately. Such violence is also an attack on the institution of family and community which are central to life in India. As family and community members turn killers, rapists, abductors, punishers, the institution of the family and community weakens.

Honour-based crimes are a symptom of the rampant caste and faith-based discrimination that exists in Indian society. As a result of this, countless young people bear the brunt of this malaise. We live in the world's largest democracy, however it appears that the freedom to safely associate, live-in, marry a person of our choice, still evades us. We live in two Indias, one where some unions are celebrated with great fanfare while some lead to boycotts from the family and communities, police intimidation, forced separations and even death.

The complex and dangerous nature of honour violence cannot be allowed to go unchecked. Further, in the absence of any codified law and no definite way to determine cases, convictions in cases of honour killings remain woefully low and none of the crimes committed in the name of honour are classified as such.

Furthermore, there is no reliable summary data available regarding honour crimes. The National Crime Records Bureau (NCRB) reports that only 540 cases of honour killing have taken place since 2014. This shows that honour crimes are being drastically underreported as these statistics are in conflict with real life figures and reports collected by NGOs which place the number of honour killing deaths to be much higher.

Since, there is no separate legislation on honour-based crimes in India, these crimes fall under existing provisions of the Indian Penal Code including section 300 for murder and and/or the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

The Law Commission has strongly recommended for formation of a separate law for dealing with crimes in the name of honour. There have been several judgements on honour crimes over the years with the Supreme Court of India stressing on the need for a separate legislation on honour crimes including the judgement of *Shakti Vahini vs Union of India* on 27 March, 2018.

Accordingly, this Bill proposes to aid the Government address honour crimes and incorporates the measures suggested by grassroot activists and survivors to mitigate the harm caused by honour-based crimes such as—

- (i) enactment of a comprehensive legislation to address crimes based on honour and protection of human rights of those affected by the issue;
- (ii) mandating separate record keeping on honour-based crimes (not just killings but all related crimes) by the NCRB and the police;
- (iii) mandating exclusive special courts and fast-track courts to address honour-based crimes cases;
- (iv) stringent action against law enforcement agencies, particularly police officials who fail to act swiftly to stop any violence in the name of honour;
- (v) providing protection for couples dealing with honour-based intimidation or violence in the form of police protection, financial support, legal support, safe homes and mental support; and

(vi) abolition or regularisation of bodies like caste/katta/khap panchayats that commit or abet honour-based crimes.

This Bill aims to achieve the above objectives.

Hence this Bill.

RAM NATH THAKUR.

## FINANCIAL MEMORANDUM

Clause 25 of the Bill provides that the appropriate Government shall frame a scheme, to be known as the Victim Compensation Scheme, for protection and rehabilitation of victims and witnesses under this Act and Clause 26 provides for provision of funds thereunder.

Clause 27(6) of the Bill provides that the appropriate Government shall create and maintain a post of Mental Health Counsellor at the Special Cells and the Safe Houses established under the provisions of this Bill and for the appointment and terms and conditions of service of such counsellors.

Clause 28 of the Bill provides for establishment of safe houses at each District Headquarter for persons seeking protection against crimes in the name of honour and clause 33 provides that for establishment of Special Cells in every District for prevention of crimes in the name of honour and to receive petitions or complaints from victims.

Clause 34 of the Bill provides for conditions of service of such counselors and for the appointment and terms and establishment of the State-level Monitoring Committees, and clause 35 provides for the establishment of District-level Monitoring Committees.

The Bill, therefore, if enacted, would involve both non-recurring and recurring expenditure from the Consolidated Fund of India. However, at this juncture, it is difficult to estimate the exact expenditure likely to be involved.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 45 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of details only, the delegation of legislative power is of normal character.

## BILL NO. XIII OF 2023

*A Bill further to amend the Constitution of India.*

BE it enacted by the Parliament in the Seventy-fourth Year of the Republic of India as follows:—

Short title and  
commencement.

1. (1) This Act may be called the Constitution (Amendment), Act, 2023.
- (2) It shall come into force with immediate effect.

Amendment  
of article 124.

2. In article 124 of the Constitution, after clause (7), the following new clause shall be inserted, namely:—

“(8) Notwithstanding anything in this Constitution, the Government shall provide for reservation in appointments of Judges in the Supreme Court in favour of Socially and Educationally Backward Classes.”.



**3.** In article 217 of the Constitution, after clause (3), the following new clause shall be inserted, namely:—

Amendment  
of article 217.

“(4) Notwithstanding anything in this Constitution, the Government shall provide for reservation in appointments of Judges in all High Courts within the territory of India in favour of Socially and Educationally Backward Classes.”.

## STATEMENT OF OBJECTS AND REASONS

The debate on the lack of social diversity within the judiciary is not new. Time and again, concerns have been raised regarding the high concentration of persons belonging to upper castes in the higher judiciary, which has subsequently resulted in low representation of minority communities including Socially and Educationally Backward Classes (SEBCs).

In the first 30 years of its functioning, that is, from 1950 until 1980, the Supreme Court had not seen any representation from the SEBCs. The present situation is no better out of the total sitting Judges in the Supreme Court currently, only 1 Judge belongs to the SEBC community. This is despite the fact that SEBCs constitute roughly 50% of the population in the country. Recently, the Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice also highlighted the need for social diversity in judicial appointments, noting that only 11% of High Court Judges belong to SEBCs.

The Government has often defended its stance of not providing reservation in appointments to the higher judiciary by citing lack of explicit provisions under articles 124 and 217 of the Constitution, which pertain to the appointment and conditions of the office of a Judge of the Supreme Court and High Courts respectively. Since the Constitution is silent on reservation in judicial appointments in favour of backward classes, social diversity within the higher judiciary has remained and continues to remain grossly inadequate. Resultantly, the benches of the higher judiciary fall short of reflecting the social realities of the country.

Various judicial institutions across the world are making efforts to constitute a diversified judicial system that is representative of their respective population. For instance, the Canadian judicial system mandates awareness and understanding of differences arising from *inter alia* race and ethnic background. These guidelines were fundamental in establishing that the Canadian Government must strive for a gender-balanced and socially diverse pool of candidates representing all jurisdictions within their judiciary. The United Kingdom is yet another country that has made efforts to recognise under represented groups within its judiciary by implementing the Judicial Diversity and Inclusion Strategy.

There is an urgent need to make the Indian judiciary as inclusive and socially diverse as possible. Active measures must be taken to ensure the representation of SEBCs within the higher judiciary of the country. To this end, this Bill seeks to amend articles 124 and 217 of the Constitution to provide for reservation in judicial appointments in the Supreme Court and High Courts in favour of SEBCs. Such affirmative action will serve to instil public confidence among all classes of people and strengthen the delivery of justice in the country.

Hence this Bill.

V. VIJAYASAI REDDY

## BILL NO. XV OF 2023

*A Bill further to amend the Consumer Protection Act, 2019.*

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

35 of 2009.

**1.** (1) This Act may be called the Consumer Protection (Amendment) Act, 2023.

Short title and commencement.

(2) It shall come into force with immediate effect.

**2.** For section 89 of the Consumer Protection Act, 2019, the following section shall be substituted, namely:—

Substitution of section 89.

**"89.** Any manufacturer, service provider, advertiser, advertising agency or endorser who causes a false or misleading or surrogate advertisement to be made which is prejudicial to the interest of consumers shall be punished with imprisonment for a term which may extend to two years and with fine which may extend to ten lakh rupees; and for every subsequent offence, be punished with imprisonment for a term which may extend to five years and with fine which may extend to fifty lakh rupees."

Punishment for false or misleading advertisement.

## STATEMENT OF OBJECTS AND REASONS

The medium of surrogate advertising and brand extensions have often been resorted to for promoting products whose advertising is otherwise prohibited or restricted by law. The practice of roping in influential celebrities holding mass appeal to further expand the reach of such products through this medium has now become common. With the growing reach of social media, surrogate advertising has seen a considerable rise in India. Even public events such as festivals and sports matches are now being leveraged to promote such products *via* surrogate advertising.

2. More often than not, brands use celebrities for the purpose of surrogate advertising, who due to their mass popularity have the ability to influence the buying decisions of the public in a negative manner. Studies show that surrogate advertisements wherein products are endorsed by celebrities can act as a catalyst for people to purchase such products. This impact is more severe among children and youth, who may get swayed by the mass appeal of the endorser without having an appropriate understanding of the risks associated with the product.

3. In this regard, Guidelines for Prevention of Misleading Advertisements and Endorsement for Misleading Advertisements, 2022, have been brought into force recently to prohibit surrogate advertising, among other things. They also prescribe duties of manufacturer, service provider, advertiser and advertising agency as well as standards of due diligence to be followed by endorsers. While the guidelines are a step in the right direction, they do not impose any strict penalty on the manufacturer, service provider, advertiser, advertising agency and endorsers. The lack of an effective deterrent has resulted in surrogate advertising continuing unabated.

4. The parent Act, *i.e.*, the Consumer Protection Act, 2019 does prescribe a penalty for false and misleading advertisements under section 89, which may be extended to surrogate advertisements as well. However, this penalty is restricted to the manufacturer or service provider and hence, does not extend to the advertiser, advertising agency or endorser of the surrogate advertisement. It is imperative that an equal penalty be placed on the advertiser, advertising agency and endorser of the surrogate advertisement, which will serve as a significant deterrent for such individuals/entities and ensure the welfare of the consumers at large.

5. Therefore, this Bill proposes to amend Section 89 of the Consumer Protection Act, 2019 by extending the punishment for false and misleading advertisements to advertisers, advertising agencies and endorsers.

Hence, this Bill.

V. VIJAYASAI REDDY.

## BILL NO. XL OF 2023

*A Bill further to amend the Central Universities Act, 2009.*

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Central Universities (Amendment) Act, 2023.

Short title and  
commencement.

(2) It shall come into force with immediate effect.

2. After section 22 of the Central Universities Act, 2009, the following new section shall be inserted, namely:—

Insertion of  
new Section  
22A.

"22A. (1) It shall be mandatory for every University to constitute an Industry-Academia Linkage Cell which shall be the principal body within the University for the purpose of developing the requisite skills among the students to facilitate their transfer from academia to industry.

Industry-  
Academia  
Linkage Cell.

(2) The Industry-Academic Linkage Cell shall be responsible for performing such functions that shall include but not be limited to:

(a) enable active and streamlined co-operation between the University and related industries and industrial institutions;

(b) foster an environment of ingenuity and research within the University;

(c) provide incubation facilities for students;

(d) create opportunities for students to participate in real-life industrial projects;  
and

(e) undertake any other activity that falls within its ambit in the interest of the students."

## STATEMENT OF OBJECTS AND REASONS

The Indian education system is often criticised for encouraging rote memorization, a concept that only encourages students to learn everything through repetition. Employers themselves have often raised concerns about Indian students lacking intrinsic skills such as problem-solving, critical thinking and leadership.

A study has revealed that about 50 per cent. of the Indian youth are not on target to possess the essential skills that will be required for various jobs in 2030. Around 1/6th of Indian students pursue engineering but due to a lack of skills required to execute technical jobs, less than 20 per cent. are employed in the field. Another study found that 80 per cent. of Indian engineers are not equipped for a job in the knowledge economy, a system that is largely based on the consumption and production of intellectual capital. Yet another study of STEM (Science, Technology, Engineering and Mathematics) students in India highlighted that they do not gain critical thinking skills over 4 years of the undergraduate degree taken up by them, as compared to similarly placed students in other countries. Even though Indian students are known for their expertise in science and technology and undergo massive migration in such fields, clearly the curricula followed in Indian Universities do not help them acquire crucial skills to thrive in the industry.

The persisting constraints in research and development (R&D) coupled with a lack of interdisciplinary opportunities have resulted in a weak innovation ecosystem in academia. It is no coincidence that India has 8 scientists for 1000 people, as compared to 18 in Canada, 21 in the US and 53 in South Korea. To address this situation, there is a compelling need to facilitate stronger linkages between academia and industry. This will enable students to attain transferrable skills from Universities and carry them forward when entering industries, thus creating more value for the economy as a whole.

While the National Education Policy, 2020 does emphasise the need for greater industry-academia linkages, it has not laid down any distinct roadmap or strategy for facilitating the same. Hence, this Bill mandates every Central University in the country to constitute an Industry-Academic Linkage Cell that will help in the creation of an ecosystem at the University level for facilitating the transfer of knowledge from academic and research institutions to the industrial market. This will also provide a much-needed nudge towards revamping the current teaching mechanism and envisioning the syllabi in a manner that actively encourages creativity and curiosity among students.

Hence this Bill.

V. VIJAYASAI REDDY.

## BILL No. XXXI OF 2023

*A Bill to provide a framework for the prevention of custodial torture inflicted by public servants, punishment and compensation for custodial crimes, rehabilitation of victims, protection of victims, complainants and witnesses, and for matters connected therewith or incidental thereto*

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Prevention of Custodial Torture Act, 2023.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means relation to a State, the Government of that State and in relation to a Union Territory, the Central Government.



45 of 1860. (b) "public servant" without prejudice to section 21 of the Indian Penal Code, 1860, refers to any person acting in his/her official capacity under the Central Government or the State Government or employed in any Government Company as defined in clause 45 of section 2 of the Companies Act, 2013, or in 18 of 2013. any other institution under the control of the Central Government or the State Government.

(c) "prescribed" means prescribed by rules made under this Act.

45 of 1860. (2) The words and expressions used herein and not defined in this Act shall have the same meanings respectively as assigned to them in the Indian Penal Code, 1860.

(3) Any reference in this Act to a law which is not in force in any area, shall, in relation to that area, be construed as a reference to the corresponding law, if any, in force in that area.

**3.** Whoever, being a public servant or being abetted by a public servant or with the consent or acquiescence of a public servant, intentionally inflicts physical or mental suffering on a person detained, held in custody or held in administrative detention or imprisoned as a result of conviction for an offence, for the purpose of:—

Custodial torture.

(a) obtaining information or a confession from him/her or a third persons; or

(b) punishment for an act he/she or a third person has committed or is suspected of having committed; or

(c) intimidating or coercing him/her or a third person for any reason based on discrimination on the basis of caste, religion, gender, race, place of residence, language or sexual orientation, is said to inflict custodial torture:

Provided that nothing contained in this section shall apply to any pain, hurt or danger caused by any act which is inflicted in accordance with any procedure established by law or justified by law.

*Explanation.*—For the purposes of this section, "custodial torture", apart from physical and mental suffering, includes, but is not limited to food deprivation, submersion of head in water, asphyxiation, use of psychoactive drugs, maltreating family members, and inflicting shame upon the victim.

**4.** Where custodial torture referred to in section 3 is inflicted on a person, the burden of proof that the torture was not intentionally caused or abetted by, or was not with the consent or acquiescence, of a public servant, shall shift to such public servant.

Burden of Proof.

**5.** (1) Where the public servant referred to in section 3 or any person abetted by or with the consent or acquiescence of such public servant, tortures or attempts to torture any person, such public servant or person shall be punishable with imprisonment for a term which shall not be less than three years but which can extend to ten years and shall also be liable to fine which shall not be less than one lakh rupees.

Punishment for custodial torture.

(2) Where death of any person is caused due to custodial torture, the person committing the offence shall be punishable with imprisonment for life and shall also be liable to fine.

**6.** (1) Any public servant or other person committing custodial torture or attempting to commit such torture shall also be liable to a fine which shall be payable as compensation to the affected person.

Compensation to victims of custodial torture.

(2) Notwithstanding the fine imposed under this Act, the appropriate Government may award such amount of compensation including interim compensation to the victim of custodial torture as may be considered necessary for rehabilitation of the victim, as may be prescribed.

(3) Compensation by the appropriate Government to the victim of custodial torture for the purpose of his rehabilitation shall be awarded taking into consideration amongst others, the following factors, namely:—

(a) the gravity of the physical and mental harm and suffering inflicted, including death if caused as a result of custodial torture;

(b) lost opportunities, including employment, education and social benefits;

(c) material damages and loss of earnings including loss of earning potential;

(d) cost required for legal or expert assistance, medicine and medical services, and psychological and social services; and

(e) the age, family responsibilities and material condition of the dependents of the victim.

(4) In case of death due to custodial torture, the dependents of the deceased person shall be entitled to such amount of compensation including interim compensation under this Act, as may be prescribed.

Abetment to torture.

7. A public servant who abets, consents, acquiesces, or conspires to commit custodial torture shall be liable to the same punishment and compensation referred to in sections 5 and section 6.

Custodial sexual abuse.

8. (1) Whoever, being a public servant or with the consent or acquiescence of a public servant, sexually abuses a person detained, held in custody or held in administrative detention or imprisoned as a result of conviction for an offence, shall be punished with rigorous imprisonment of either description for a term which shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine.

(2) A public servant who consents, acquiesces, or conspires to commit custodial sexual abuse referred to in the sub-section (1), shall also be liable to the same punishment referred to in sub-section (1).

Cognizance of the offence.

9. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no court shall take cognizance of an offence under this Act unless the complaint is made within a period of two years from the date on which the offence is alleged to have been committed.

2 of 1974.

Protection of victims, complainants and witnesses.

10. It shall be the duty and responsibility of the State Government to make arrangements for the protection of victims of custodial torture and custodial sexual abuse, complainants and witnesses against all kinds of ill-treatment, violence, threats of violence, or physical harm or mental trauma, from the time of submission of the complaint till such time the State Government is satisfied that such protection is no longer required.

Effect of provisions of this Act.

11. (1) The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

(2) The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Power to make rules.

12. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days

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which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

Article 21 of the Indian Constitution guarantees the right to life and personal liberty to each and every person in the country. Custodial violence not only takes away the fundamental right to life but also viciously violates human dignity. Unfortunately, the existing laws in India do not adequately address custodial crimes.

2. India is a signatory to the United Nation Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment since 14th October, 1997, however, India is yet to ratify the same. Therefore, enabling legislation against torture is necessary for the ratification of the Convention. A legislation against custodial torture in consonance with the definition of torture provided under the Convention and related Indian legal provisions will ensure a right against custodial torture for all persons in India.

3. The Supreme Court in the case of *D.K. Basu v. State of West Bengal* (1997) held that the expression “life or personal liberty” in article 21 of the Constitution of India includes a guarantee against torture and assault even by the State and its functionaries to a person who is taken into custody. The Law Commission of India has also recommended ratification of the UN Convention against Torture and tougher laws for custodial torture.

4. In 2010, the Lok Sabha passed the Prevention of Torture Bill, 2010 which subsequently lapsed in Rajya Sabha. However, the Select Committee of Rajya Sabha in its report on the 2010 Bill flagged certain gaps in the Bill and suggested stricter provisions of prevent custodial torture. Taking a cue from the Committee Report, the current Bill criminalises custodial torture, death and sexual abuse, and prescribes punishments for these offences. In addition to this, the Bill also provides a legal framework for compensation, rehabilitation, and protection of victims of custodial violence.

The Bill seeks to achieve the above-stated objectives.

Hence this Bill.

MANOJ KUMAR JHA.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 empowers the Central Government, as the case may be, to make rules for carrying out the purposes of the Bill. The matters in respect of which the rules and regulations may be made are of procedure and administrative details and as such, it is not practicable to provide for them in the proposed Bill itself. The delegation of legislative power is, therefore, of a normal character.

## BILL No. XXVII OF 2023

*A Bill further to amend the Constitution of India.*

BE it enacted by the Parliament in the Seventy-fourth Year of the Republic of India as follows:—

Short title and  
commencement.

**1.** (1) This Act may be called the Constitution (Amendment), Act, 2023.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of  
Article 51A.

**2.** In article 51A of the Constitution, for clause (e), the following clause shall be substituted, namely:—

"(e) to promote harmony and the spirit of tolerance and common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce any kind of discrimination, violence and practices derogatory to the dignity of persons belonging to the Scheduled Castes, Scheduled Tribes, Other Backward Classes and minorities and women."

## STATEMENT OF OBJECTS AND REASONS

"Fraternity" is the most vital constitutional value that binds unity and equality, and is an inherent part of the Indian Constitution. While the Preamble sets out fraternity as a guiding principle of the Constitution, the fundamental duties translate it into a responsibility of each and every citizen of the country. Article 51A(e) of the Constitution talks about the promotion of harmony and brotherhood amongst all people in the country. However, with changing times, the scope of fraternity in the Indian Constitution needs to be expanded.

Be it geographical, linguistic, social, cultural, or religious, diversity exists in every corner of the country. India's diversity which has always been recognised as its most unique and powerful characteristic, is being exploited as a tool of oppression, discrimination and communalism in the country. In the present scenario, it is our duty to revisit and rejuvenate the discourse on fraternity through the channels of the Constitution.

The differences created by caste, religion, language, and gender cannot be mitigated solely by the State or legal instruments. The collective efforts of all citizens are required to uproot discrimination and intolerance in the country. Unlike fundamental rights, the responsibility of upholding fundamental duties vests with the citizens of India. Therefore, fundamental duties are the most appropriate constitutional tool to achieve the objective.

The protection and socio-economic upliftment of marginalised communities are stated as objectives of the Indian Constitution, thus the principles of non-discrimination and tolerance should be reflected and endorsed as fundamental duties of every Indian citizen to ensure that these values remain uncontested.

The Bill seeks to achieve above-mentioned objective.

MANOJ KUMAR JHA.

## BILL No. XXVIII OF 2023

*A Bill further to amend the Payment and Settlement Systems Act, 2007.*

BE it enacted by the Parliament in the Seventy-fourth Year of the Republic of India as follows:—

Short title and commencement. **1.** (1) This Act may be called the Payment and Settlement Systems (Amendment) Act, 2023.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 26. **2.** In section 26 of the Payment and Settlement Systems Act, 2007:—

51 of 2007.

"(i) for sub-section (1), the following shall be substituted, namely:—

"(1) Where a person contravenes the provisions of section 4 or fails to comply with the terms and conditions subject to which the authorisation has been issued under section 7, he shall be punishable with fine which may extend



to one crore rupees and with a further fine which may extend to one lakh rupees for every day, after the first during which the contravention or failure to comply continues.";

(ii) in sub-section (2), the words "imprisonment for a term which may extend to three years and shall also be liable to" shall be omitted;

(iii) for sub-section (4), the following shall be substituted, namely:—

"(4) If any person discloses any information, the disclosure of which is prohibited under section 22, he shall be punishable with fine which may extend to five lakh rupees or an amount equal to twice the amount of the damages incurred by the act of such disclosure."; and

(iv) for sub-section (5), the following shall be substituted, namely:—

"(5) Where a direction issued under this Act is not complied with within the period stipulated by the Reserve Bank or where no such period is stipulated, within a reasonable time or where the penalty imposed by the Reserve Bank under section 30 is not paid within a period of thirty days from the date of the order, the system provider or the system participant which has failed to comply with the direction or to pay the penalty shall be punishable with fine which may extend to one crore rupees and where the failure to comply with the direction continues, with a further fine which may extend to one lakh rupees for every day, after the first during which the contravention continues.".

## STATEMENT OF OBJECTS AND REASONS

The complexities in section 26 of the Payment and Settlement Systems Act, 2007 are manifold. In an effort to be stricter with the issue of non-compliances, misdirection and withholding of relevant statements or information, the aspect of imprisonment for the aforementioned offences was introduced.

2. As per the joint report of regulatory technology firms, the TeamLease RegTech and the Observer Research Foundation (ORF) in February, 2022, over 26,000 imprisonment clauses in Indian commercial laws have been deterring the spirit of entrepreneurship in India. Of the 1,536 laws that specifically govern the aspect of doing business in India, more than half carry imprisonment clauses. Of the 69,233 compliances that businesses have to follow, 37.8 per cent. (or almost two out of every five) carry imprisonment clauses. More than half the clauses requiring imprisonment carry a sentence of at least one year. In the light of the need to ease small and medium-scale businesses, as well as multinational corporates into the trading ecosystem of the country, it is imperative that such disproportionate burdens, in the form of imprisonment, be done away with.

3. Necessity and proportionality are essentially general principles of law and legislative drafting. In other words, these are principles that ought to be considered whenever a law, a rule or a regulation is being written. Since they do not have a universal definition, for the purpose of regulatory compliance criminality, we shall adopt a working definition of the two principles. One, for imprisonment to be justified in a law or regulation creating criminality, it must be fundamental to securing the ends of the regulation itself (necessity). And two, such punishment must be commensurate with the gravity of the harm caused or likely to be caused or it must offer justified restitution, first and foremost. Imprisonment must be seen as a last resort, to deal with the most severe of harms that strikes at the roots of a country's ethos. In the light of the same, reforms to clauses around imprisonment shall strengthen capital flows, facilitate a greater exchange of privileged end-to-end corporate information and instil a general sense of security for upcoming business enterprises.

4. The proposed amendment seeks to obliterate the element of criminality in the form of imprisonment and instead, opts for a reformatory system of penalties to protect, and promote the interests of business.

Hence, this Bill.

AMAR PATNAIK.

## BILL NO. XXX OF 2023

*A Bill further to amend the Indian Penal Code, 1860.*

BE it enacted by the Parliament in the Seventy-fourth Year of the Republic of India as follows:—

**1.** (1) This Act may be called the Indian Penal Code (Amendment) Act, 2023.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

45 of 1860.

**2.** For section 305 of the Indian Penal Code, 1860, (hereinafter referred to as the Code), the following section shall be substituted, namely: —

Substitution of  
section 305.

**“305.** If any person under eighteen years of age, any insane person, any delirious person, any idiot, any specially-abled person, or any person in a state of intoxication, commits suicide, whoever abets the commission of such suicide, shall be punished with death or imprisonment for life, or imprisonment for a term not exceeding ten years, and shall also be liable to fine.”

Abetment of  
suicide of child,  
insane person  
or specially-  
abled person.

**3.** In the Code, in section 375, Exception 2, shall be omitted.

Amendment of  
section 375.

## STATEMENT OF OBJECTS AND REASONS

India is a society riddled with myriad distinctions. The plight of individuals who are specially-abled makes them vulnerable to extraneous pressures or coercion of any kind. The World Bank estimates that 15 per cent of the world's population is affected by one disability or another. According to the 2011 Census, the number of disabled in India stands at 2.68 crores or 2.21 per cent of the population. In the last decade, India has unfortunately witnessed a spate of suicides by the specially-abled.

Suicides can be triggered by a variety of factors. The extreme levels of inequity notwithstanding, the specially-abled are at a high risk of being pushed towards the extreme. Section 305 of the Indian Penal Code covers children, insane persons, and persons under intoxication. Considering the potential psychological impact of societal inequities, limitations of opportunity, and general hostility, it becomes essential to place the life of the specially-abled in the same bracket.

Further, cases of child molestation and Rape have always been a source of tension for a developing society like India. As per the reports of the National Crime Records Bureau (NCRB) in 2020, over twenty-eight thousand crimes reported under the Protection of Children from Sexual Offences (POCSO) Act were against girls. This was a total of 99 per cent of crimes against children under the POCSO act. Further, under the same report, the crimes against 16 to 18 year old girls were the highest at 14,092.

The data shows that minor girls continue to be the most vulnerable sections of society. In this context, up until the year 2022, the Indian Penal Code, 1860 did not even acknowledge forced sexual intercourse by a man with his own wife, if she was 15 years of age and above. While the Criminal Law (Amendment) Act, 2013 amended the Indian Penal Code to raise the age of consent to sexual intercourse to 18, but, it did not apply further to Exception 2 of section 375.

It created a contradiction where exception 2 of section 375, i.e. "Sexual intercourse by a man with his own wife, the wife not being under fifteen years of age, is not rape" implied that forced sexual intercourse by a husband with a minor wife was decriminalized. However, in 2018, under *the Independent Thought Vs Union of India, 2017* case, the Supreme Court acknowledged this and read down the exception to raise the age of consent to 18. This decision was taken in line with the age of consent and attaining majority as established in different laws and statutes across the country. It also called for Parliament to rectify the anomaly and address violations of girls' rights due to child marriage. However, no amendment has been introduced in this regard since then.

The very existence of Exception 2, which fails to deter husbands from engaging in acts of forced sexual contact with their minor wives, adversely affects the physical and mental health of women and undermines their ability to live with dignity. Therefore, the provisions mentioned under the exception to this section further perpetuate inequality and violate the right to life and personal liberty, calling for urgent Parliamentary intervention.

This Bill proposes to protect the specially-abled persons and bring such people, who abet their suicide, to justice and to bring greater clarity in preventing sexual violence against minor married girls.

Hence this Bill.

AMAR PATNAIK.

## BILL NO. XLII OF 2023

*A Bill to identify areas of concern displaying vulnerability to the effects of climate change, to study and measure the risks posed as well as identify outcomes of climate change in such areas through a Climate Change Impact Assessment; to further formulate and implement Community Action Plans to build resilience, ensure rehabilitation as well as resettlement of the affected areas and of persons living in such areas, as the case may be, and provide for the rights and obligations of appropriate Governments and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Adaptation to Climate Change (Resilience, Rehabilitation and Resettlement) Act, 2023.

Short title and  
commencement.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State; in the case of a Union Territory, the Union Territory Administration; and in all other cases, the Central Government;

(b) "Area of Concern" means an area within the territory of India which is declared as such under section 3;

(c) "climate change" means a change of climate which is in addition to natural climate variability observed over a comparable time period;

(d) "Climate Change Impact Assessment" means the process of identifying, diagnosing, measuring, categorizing and documenting risks posed by climate change in an Area of Concern and its people, communities, economic activities etc., as laid down in section 4;

(e) "Climate Change Impact Assessment Report" means the report compiled and published by the appropriate Government in accordance with sub-section (4) of section 4;

(f) "effects of climate change" includes events as listed under sub-section (1) of section 3;

(g) "local authority" means a Municipal Corporation or Municipal Council or Town Planning Committee or Zila Parishad or Nagar Panchayat or Panchayat, by whatever name called, and includes such other authority or body having administrative control or empowered by, or under any law for the time being in force to function as a local authority in any city, town or village;

(h) "prescribed" means prescribed by rules and/or orders made under this Act;

(i) "resilience" means the ability of an area to prepare for, absorb, and accommodate, the effects of climate change in a timely and efficient manner;

(j) "rehabilitation" means a planned process by which persons or groups of persons, who are forced to move or are obliged to move temporarily, from the places of their habitual residence due to the risk of occurrence of sudden-onset disaster, are assisted to move from such places, and are temporarily settled in a safe location, and provided with the conditions for supporting their lives as prescribed under section 7 for such temporary period until their return to the places of their habitual residence is ensured or until their resettlement elsewhere; and

(k) "resettlement" means a planned process by which persons or groups of persons, who are forced to move or are obliged to move permanently, from the places of their habitual residence due to the risk of loss of territory, are assisted to move from such places, and are permanently settled in a safe location, and provided with the conditions for rebuilding their lives as prescribed under sub-section (2) of section 8.

Notifying  
Areas of  
Concern.

3. (1) It shall be the duty of the appropriate Government to identify and notify regions within its territory, both urban and rural, as Areas of Concern where it has reasons to believe that an identified region is vulnerable to climate change and its effects and where such reason is based on previous or ongoing occurrences of any of the following events or where it has reasons to believe that any of the following events are most likely to occur and re-occur in the ordinary course:—

(a) sea level rise;

(b) desertification;

(c) glacial melt;

(d) increasing temperatures;

- (e) land/forest degradation;
- (f) precipitation changes;
- (g) salinization;
- (h) extreme weather events like floods and landslides; and/or
- (i) any other disasters directly or indirectly attributable to climate change.

(2) Without prejudice to the generality of the provisions of sub-section (1), the appropriate Government shall notify Areas of Concern in such manner, subject to the considerations stipulated in sub-section (1) and based on such other considerations, as may be prescribed in this behalf by the Central Government.

(3) The appropriate Government shall as expeditiously as possible, but not later than three months from the date of commencement of this Act, notify areas within its territory as Areas of Concern in accordance with this provision.

4. (1) It shall be the duty of the appropriate Government to conduct Climate Change Impact Assessment in each Area of Concern within its territory, in such manner and according to such procedure, as may be prescribed in this behalf by the Central Government and as per the policy framed by it for the purpose of identifying and studying the effects of climate change in such area(s).

Conducting  
Climate  
Change  
Impact  
Assessment.

(2) Without prejudice to the generality of the provisions of sub-section (1), the process of Climate Change Impact Assessment shall, amongst other matters, identify relevant effects of climate change in the Area of Concern, as well as record projections, forecasts and results that are quantifiable and measurable wherever required, of any of the following outcomes occurring due to the identified effects of climate change in such area(s) and upon people living within such area(s):—

- (a) expected loss of livelihood;
- (b) water or food security;
- (c) risk of sudden-onset disaster;
- (d) loss of territories etc.; and/or
- (e) such other results, projections or forecasts as may be considered necessary to be recorded by the appropriate Government or as may be prescribed by the Central Government.

(3) Whenever the appropriate Government intends to conduct a Climate Change Impact Assessment under sub-section (1), it shall consult the concerned local authorities in such area(s) as well as adequate number of persons, families and communities living in such area(s), and conduct the said assessment in consultation with them in such manner as may be prescribed by the Central Government in this behalf:

Provided that the appropriate Government shall ensure that adequate representation has been given to the representatives of each of the local authorities, and representatives of persons, families and communities living in such area(s), as the case may be, at the stage of carrying out the Climate Change Impact Assessment in such area(s).

(4) The appropriate Government shall, as expeditiously as possible but not later than six months from the date of notification of the Area of Concern, compile and publish a report containing all the information obtained during the process of Climate Change Impact Assessment including the results, projections and forecasts as stipulated in sub-section (2) and such other information as may be deemed necessary, in such form as may be prescribed by the Central Government in this behalf or as may be considered necessary to be recorded by the appropriate Government.

Community  
Action Plan  
for building  
resilience and  
ensuring  
rehabilitation  
and  
resettlement.

5. (1) It shall be the duty of the appropriate Government to formulate and implement a specific Community Action Plan for each Area of Concern under its jurisdiction, consisting of localized solutions and specific actions to be undertaken for building resilience as well as ensuring rehabilitation and resettlement or any combination of them or all of them, as the case may be in accordance with the provisions of sections 6 to 8 and the policy framed by the Central Government for carrying out such purposes, in such manner and according to such procedure as may be prescribed by the Central Government in this behalf.

(2) For the purpose of formulating and implementing the Community Action Plan, the appropriate Government shall act in consultation with as well as take assistance of each of the concerned local authorities, and shall ensure adequate participation and representation of the persons living in such Area of Concern in the manner as may be prescribed by the Central Government in this behalf:

Provided that in the case of building resilience, the implementation of the Community Action Plan shall involve the participation of at least one member from each household living in a particular Area of Concern.

(3) The appropriate Government shall formulate and implement the Community Action Plan as expeditiously as possible, but not later than six months from the date of publishing of the Climate Change Assessment report as required under sub-section (4) of section 4 of this Act.

Building  
resilience.

6. (1) Where the Climate Change Impact Assessment Report for an Area of Concern suggests that one of the impacts arising out of the identified effects of climate change in such area(s) or upon persons living in such area(s), among others, is loss of livelihood or water or food insecurity or both or such other impacts where measures to build resilience are considered necessary by the appropriate Government, as the case may be, then in such cases the appropriate Government shall formulate and implement a Community Action Plan to build resilience, in accordance with the general provisions of section 5 of this Act and the policy formulated in this behalf by the Central Government, in such form and manner as may be prescribed in this behalf by the Central Government.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Community Action Plan for building resilience shall contain a detailed plan of action to ensure implementation of the following measures among others, in the relevant Areas of Concern and for the people living or employed in such area(s):—

- (a) watershed development;
- (b) promotion of climate resilient agriculture practices;
- (c) crop insurance;
- (d) water and forest conservation;
- (e) drought mitigation measure;
- (f) sustainable land management;
- (g) alternate rural livelihood skilling;
- (h) off farm livelihoods targeting the needs of the national labour market;
- (i) building climate proof housing and community infrastructure;
- (j) increasing green space and canopy cover;
- (k) building seawalls to prevent coastal erosion;
- (l) ensuring proper flood management through effective drainage and creating permeable surfaces;



(m) providing alternate skilling to vulnerable workers who are facing adverse productivity losses due to negative health outcomes of climate change in urban areas of concern, and providing suitable one-time monetary compensation, where such skilling is not possible on account of severe health issues faced by any such person;

(n) increasing capacity of public health institutions to manage the expected rise in adverse health issues due to climate change; and

(o) such other measures as may be deemed necessary by the appropriate Government or as may be prescribed by the Central Government in this behalf.

7. (1) Where the Climate change Impact Assessment Report for an Area of Concern suggests that one of the impacts arising out of the identified effects of climate change in such area(s) or upon persons living in such area(s), among others, is risk of a sudden-onset disaster, then in such cases the appropriate Government shall formulate and implement a Community Action Plan to ensure rehabilitation, in accordance with the general provisions of section 5 of this Act and the policy formulated in this behalf by the Central Government, in such form and manner as may be prescribed in this behalf by the Central Government.

Ensuring  
rehabilitation.

(2) Without prejudice to the generality of the provisions of sub-section (1) the Community Action Plan to ensure rehabilitation shall stipulate a detailed plan of action to ensure implementation of the following measures among others, for all the persons and their families having their places of habitual residence in the concerned Area of Concern:—

(a) identification of the number of persons and families requiring rehabilitation;

(b) identification of an alternative safe location to accommodate all such persons and families;

(c) rescuing all such persons and families, and ensuring their temporary relocation in a planned manner to the location identified under clause (b);

(d) setting up in the safe location identified under clause (b), temporary medical services, health and sanitation awareness workshops and educational camps for children, and ensuring its access to all such persons and families;

(e) investing in early warning systems and effective dissemination of alerts to the vulnerable population; and

(f) such other measures as may be deemed necessary by the appropriate Government for ensuring rehabilitation or as may be prescribed in this behalf by the Central Government.

8. (1) Where the Climate Change Impact Assessment report for an area of concern suggests that one of the impact arising out of the identified effects of climate change in such area(s) or upon persons living in such area(s), among others, in the risk of loss of territory, then in such cases the appropriate Government shall formulate and implement a Community Action Plan to ensure resettlement, in accordance with the general provisions of section 5 of this Act and the policy formulated in this behalf by the Central Government, in such form and manner as may be prescribed in this behalf by the Central Government.

Ensuring  
resettlement.

(2) Without prejudice to the generality of the provision of sub-section (1), the Community Action Plan to ensure resettlement shall stipulate a detailed plan of action to ensure implementation of the following measures, among others, for the all the persons or families belonging to a common household having their homes or places of habitual residence in the concerned Area of Concern:—

(a) identification of the persons and families belonging to a common household having their homes in such area(s) requiring resettlement;

(b) identification of an alternative safe location where land or a house could be allotted to all the persons, or to each of the families belonging to a common household having their homes or places of habitual residence in such area(s);

(c) allotment of a house or a land to each such persons or families belonging to a common household in the safe place identified under clause (b);

(d) ensuring access to basic amenities including safe drinking water, proper sanitation, electricity etc. to each land or house allocated under clause (c);

(e) providing an employment opportunity to at least one person belonging to each such family, near or within the place identified as per clause (c), or compensation in lieu of such opportunity;

(f) issuing an identity card to each such person for availing benefits of welfare schemes of the appropriate Government with distinction;

(g) providing appropriate skill training to at least one person belonging to each such family, in order to equip such person with requisite skills to avail basic employment; and

(h) such other measures as may be deemed necessary by the appropriate Government for ensuring resettlement, or as may be prescribed in this behalf by the Central Government.

Responsibilities  
of the Central  
Government.

9. (1) Subject to the provisions of this Act, the Central Government shall have the responsibility to take all such measures as it deems necessary or expedient for carrying out the purposes of building resilience and ensuring rehabilitation and resettlement, against or occurring due to or which might occur due to the effects of climate change.

(2) Without prejudice to the generality of the provision of sub-section (1), the Central Government shall in such manner as may be prescribed:—

(a) lay down, publish and execute a nationwide policy in this regard including formulation and implementation of Community Action Plans as laid down in sections 6 to 8, conducting Climate Change Impact Assessment and any other policies on such other matters as it deems necessary or expedient for carrying out the purpose(s) of this Act;

(b) ensure appropriate allocation of funds and extend financial assistance to the State Governments for building resilience, ensuring rehabilitation and resettlement against the effects of climate change and for carrying out all other purposes of this Act, as assigned to them thereunder;

(c) ensure coordination of actions of the Ministries of Departments of the Government of India, State Governments, authorities constituted and officers appointed under the provisions of this Act, in relation to the duties and functions assigned to them under the provisions of this Act;

(d) ensure co-operation of and assistance to State Governments, on all matters including conducting Climate Change Impact Assessment and preparing and implementing Community Action Plans in accordance with the provisions of this Act, either as requested by them or otherwise deemed appropriate by it for carrying out the purposes of this Act;

(e) plan and organise training of all persons either of the State Governments or of itself, as the case may be, engaged or proposed to be engaged for carrying out the purposes of this Act;

(f) collect, compile and publish technical and statistical data relating to climate change and its effects and necessary for building resilience, ensuring rehabilitation and resettlement against such effects;

(g) formulate and prescribe a detailed procedure and format for conducting Climate Change Impact Assessment by the appropriate Governments including rules for identifying and measuring risks posed by climate change and its effects, consultation with persons living within the Area of Concern, preparation and publication of Climate Change Impact Assessment reports and other relevant aspects thereof as the Central Government may deem necessary for carrying out the purposes of this Act;

(h) formulate and prescribe a detailed procedure and format for the preparation and implementation of Community Action Plans by the appropriate Government for building resilience, ensuring rehabilitation and resettlement against or due to the effects of climate change;

(i) research, compile, document and disseminate, amongst each of the appropriate Governments and to the public, data and information on possible adverse impact of climate change on public health, as well as recommend measures to be taken by the appropriate Government and health sector including measures to train their personnel, develop medical infrastructure and such other measures as the Central Government may deem necessary to deal with such adverse impact on public health; and

(j) take such other actions or measures as it may consider necessary for carrying out the purposes of this Act.

(3) The Central Government may, if it considers it necessary or expedient so to do for carrying out the purposes of this Act, by order, published in the Official Gazette, constitute an authority or authorities, by such name or names, as may be specified in the order, for the purpose of exercising and performing such of the powers and functions of the Central Government under this Act and for taking such measures with respect to all or any of the matters referred to in sub-section (2) as may be mentioned in the order and subject to the supervision and control of the Central Government and in accordance with the provisions of such order, such authority or authorities may exercise the powers or perform the functions or take the measures so mentioned in the order as if such authority or authorities had been empowered by this Act to exercise those powers or perform those functions or take such measures.

**10.** (1) Without prejudice to the generality of the provisions of sub-section (3) of section 9, the Central Government may appoint such number of officers with such designation, as it thinks fit, and on such salary, allowances and other conditions of service, as may be prescribed, for carrying out the purposes of this Act and may entrust to them such powers and functions under this Act, as it may deem fit.

Appointment of officers by the Central Government.

(2) The officers appointed under sub-section (1) shall be subject to the general control and direction of the Central Government or, if so directed by that Government, also of the authority or authorities, if any, constituted under sub-section (3) of section 9 or of any other authority or officer, as it may deem fit.

**11.** (1) Subject to the provisions of this Act, the appropriate Government shall have the responsibility to take all such measures as may be prescribed under the nationwide policy formulated by the Central Government under clause (a) of sub-section (2) of section 9 and any other measures, as it may deem necessary or expedient for carrying out the purposes of building resilience and ensuring rehabilitation and resettlement, against or occurring due to or which might occur due to the effects of climate change and such other measures as prescribed by the Central Government in this behalf.

Responsibilities of the appropriate Government.

(2) Without prejudice to the generality of the provisions of sub-section (1), the appropriate Government in such manner as may be prescribed, shall:—

(a) identify and notify Areas of Concern in accordance with the provisions of this Act;

(b) conduct Climate Change Impact Assessment and publish report thereof in accordance with the provisions of this Act;

(c) formulate and implement Community Action Plans, wherever required, to build resilience, ensure rehabilitation and resettlement, as the case may be, against or occurring due to or may occur due to the effects of climate change, in accordance with the provisions of this Act;

(d) ensure coordination of actions of different Departments functioning under it as well as coordination of actions of the local authorities functioning under its jurisdiction for carrying out the purposes of this Act;

(e) where the appropriate Government is the State Government, ensure cooperation with, and provide assistance to, the Ministries or Departments of the Government of India for carrying out the purposes of this Act, as requested by them or otherwise deemed appropriate by it;

(f) ensure appropriate allocation of funds to its Departments and local authorities for building resilience, ensuring rehabilitation and resettlement against the effects of climate change and for carrying out all the other purposes of this Act;

(g) take measures to develop medical infrastructure, train personnel involved in providing medical services and such other measures as the appropriate Government deems necessary or as recommended by the Central Government, to deal with the possible adverse impact of climate change on public health; and

(h) take such other actions or measures as it may consider necessary for carrying out the purposes of this Act.

(3) The appropriate Government may, if it considers it necessary or expedient so to do for carrying out the purposes of this Act, by order, published in the Official Gazette, constitute an authority or authorities, by such name or names, as may be specified in the order, for the purpose of exercising and performing such of the powers and functions of the appropriate Government under this Act and for taking such measures with respect to all or any of the matters referred to in sub-section (2) as may be mentioned in the order, and subject to the supervision and control of the appropriate Government and in accordance with the provisions of such order, such authority or authorities may exercise the powers or perform the functions or take the measures so mentioned in the order as if such authority or authorities had been empowered by this Act to exercise those powers or perform those functions or take such measures.

Appointment  
of officers  
by the  
appropriate  
Government.

**12.** (1) Without prejudice to the generality of the provisions of sub-section (3) of section 11, the appropriate Government may appoint such number of officers with such designation, as it thinks fit, and on such salary, allowances and other conditions of service, as may be prescribed, for carrying out the purposes of this Act and may entrust to them such powers and functions under this Act, as it may deem fit.

(2) The officers appointed under sub-section (1) shall be subject to the general control and direction of such appropriate Government or, if so directed by that Government, also of the authority or authorities, if any, constituted under sub-section (3) of section 11 or of any other authority or officer, as it may deem fit.

Duties of  
local  
authorities.

**13.** (1) It shall be the duty of the local authorities in the concerned Area of Concern to assist the appropriate Government in conducting the Climate Change Impact Assessment as well as in the formulation and the implementation of the Community Action Plans to build resilience or ensure rehabilitation or resettlement, as the case may be, in each such area, in accordance with the provisions of this Act and policy(ies) formulated and rules made thereunder in this behalf by the Central Government.

(2) Without prejudice to the generality of the provisions of sub-section (1), the local authorities shall in such manner as may be prescribed:—

(a) ensure that its officers and employees are trained adequately for carrying out the purposes of this Act including, among others, for conducting the Climate Change Impact Assessment, formulating and implementing the Community Action Plans for building resilience, ensuring rehabilitation and providing resettlement, as the case may be, etc.;

(b) ensure availability of adequate funds to support and carry out Climate Change Impact Assessment and formulate and implement the Community Action Plans for building resilience, ensuring rehabilitation and resettlement, as the case may be, etc.;

(c) participate in, carry out and conduct Climate Change Impact Assessment including its consultation process in accordance with the provisions of this Act;

(d) participate and support in the formulation as well as implementation of the Community Action Plans for building resilience, ensuring rehabilitation and resettlement, as the case may be, in accordance with the provisions of this Act;

(e) build awareness and ensure dissemination of information amongst persons, families and communities living in the Areas of Concern regarding the actions taken under this Act;

(f) encourage participation from amongst the persons, families and communities living in the Areas of Concern, in the activities undertaken by the appropriate Government and itself under this Act; and

(g) take such other actions or measures as it may deem necessary for carrying out the purposes of this Act.

**14. (1)** The Central Government may, by notification in the Official Gazette, make rules in respect of the following matters, namely:—

Power to make rules.

(a) the manner, procedure and considerations, subject to the consideration already stipulated under sub-section (1) of section 73 of this Act, based on which the appropriate Government shall notify Areas of Concern under section 73 of this Act;

(b) the manner and procedure for conducting the Climate Change Impact Assessment by the appropriate Government, as required under sub-section (1) of section 4, including rules for the results, projections or forecasts to be recorded in such assessment, as required under sub-section (2) of section 4, rules for the form, manner and procedure of conducting consultation with the relevant local authority, persons, families and communities living in relevant area of concern, as required under sub-section (3) of section 4, and the rules for the procedure, form and manner of compiling and publishing the report of Climate Change Impact Assessment as well as the information, results and projections to be included in such report, as required under sub-section (4) of section 4, of this Act;

(c) the form, manner and procedure for formulating and implementing the Community Action Plan for building resilience by the appropriate Government, as required under sub-section (1) of section 5 and sub-section (1) of section 6, including rules for stipulating lists of measures to be formulated and implemented in such plans, as required under section (2) of section 6, rules for participation of local authorities and persons living in the relevant Areas of Concern, in the consultation as well as the implementation of such plans, as required under sub-section (2) of section 5, and sub-section (3) of section 5;

(d) the form, manner and procedure for formulating and implementing the Community Action Plan for ensuring rehabilitation by the appropriate Government, as required under sub-section (1) of section 5 and sub-section (1) of section 7, including rules for stipulating lists of measures to be formulated and implemented in such plans, as required under section (2) of section 7, rules for participation of local authorities and persons living in the relevant Areas of Concern, in the consultation as well as the implementation of such plans, as required under sub-sections (2) and (3) of section 5;

(e) the form, manner and procedure for formulating and implementing the Community Action Plan for ensuring resettlement by the appropriate Government, as required under sub-section (1) of section 5 and sub-section (1) of section 8 including rules for stipulating lists of measures to be formulated and implemented in such plans, as required under section (2) of section 8, rules for participation of local authorities and persons living in the relevant areas of concern, in the consultation as well as the implementation of such plans, as required under sub-sections (2) and (3) of section 5; and

(f) any other matter which has to be, or may be, prescribed, or is considered expedient for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Act not in  
derogation of  
any other law.

**15.** The provisions of this Act shall be in addition to, and not in derogation of the provisions of any other law for the time being in force.

## STATEMENT OF OBJECTS AND REASONS

Today there are multiple reports and studies that prove the existence of climate change and its adverse effects on our planet and its diverse inhabitants. The Intergovernmental Panel on Climate Change in their assessment reports have concluded that human activities are altering our climate system. These changes are not only manifesting in the form of increased frequency and magnitude of extreme weather events but also through a gradual change in weather patterns. These slow onset effects of climate change are ensuring that the consequences are almost invisible to all except the ones that are facing their full brunt.

While climate change is a global phenomenon, the intensity and consequences of its impact are being shouldered unequally, both across and within countries. Those communities, whose livelihoods are dependent on natural resources are facing the maximum brunt of its effects, compounding their existing high vulnerabilities. Changes in temperature, precipitation, and land degradation are rendering agriculture and other natural resource-based livelihoods both unproductive and unreliable, leaving those reliant on it with very difficult choices. They can either stay and suffer or migrate out to sustain themselves. For some communities in coastal India, there isn't even a choice as increasing intensity of sea erosion has led to entire villages being abandoned.

These people are already amongst the poorest and are now having to use their constrained resources to cope with adverse climatic conditions. This extends to the poor in urban areas as well, whose daily livelihoods, unlike the more fortunate, aren't insulated from the vagaries of environment and hence are much more vulnerable.

While the effects of climate change are showing up in different forms throughout the country, a common feature however, is their disproportionate impact on the already vulnerable and poor. They are paying the highest price for the growth and development that has ironically evaded them the most. They are victims of climate change and it is therefore the duty of the State to ensure their protection.

This Bill seeks to lay out a strategy to build resilience and ensure rehabilitation and resettlement of the affected communities. While mitigation efforts need to continue with fervour and determination, they need to be complemented by building adaptive capacity to minimise the damage to livelihoods from climate change. For this purpose, there is a need for a systematic framework which institutionalises climate change adaptation at the national level while simultaneously allowing for localised strategies.

Hence, this Bill.

VANDANA CHAVAN.



## FINANCIAL MEMORANDUM

Clause 4 of the Bill provides that the appropriate Government shall conduct Climate Change Impact Assessment in each Area of Concern within its territory and compile and publish a report thereon. Clauses 5 to 8 of the Bill provide that the appropriate Government shall formulate and implement a specific Community Action Plan for building resilience and ensuring rehabilitation as well as resettlement in each Area of Concern under its jurisdiction and chalk out a detailed action plan as well as take such specific measures as laid down in the provisions of these sections for implementation of each specific Community Action Plan.

Clause 9 of the Bill provides that it shall be the responsibility of the Central Government to take all such measures as it deems necessary or expedient for carrying out the purposes of building resilience and ensuing rehabilitation and resettlement, against or occurring due to or which might occur due to the effects of climate change, including formulation, publication and execution of a nationwide policy, ensuring appropriate allocation of funds and extend financial assistance to the respective State Governments, training of all persons, publishing technical and statistical data relating to climate change etc. as well as constitute an authority or authorities to carry out the provisions of the Bill, if deemed necessary.

Clause 11 of the Bill *inter alia* provides that the appropriate Government shall take all such measures as it deems necessary or expedient for carrying out the purposes of building resilience and ensuring rehabilitation and resettlement, against or occurring due to or which might occur due to the effects of climate change, including identifying and notifying Areas of Concern, conducting Climate Change Impact Assessment, implementing Community Action Plans, ensuring appropriate allocation of funds etc., as well as constitute an authority or authorities to carry out the provisions of the Bill, if deemed necessary.

Clause 10 and 12 of the Bill respectively provide for the appointment of such number of officers with such designations, as the Central and appropriate Governments may think fit, on such salary, allowances and other conditions of service, as may be prescribed.

Clause 13 provides that the local authorities shall *inter alia* in the concerned Area of Concern assist the appropriate Government in conducting the Climate Change Impact Assessments, as well as ensure training of its officers and employees, availability of adequate funds to support and carry out Climate Change Impact Assessments etc.

This Bill, therefore, if enacted will involve additional expenditure from the Consolidated Fund of India, both recurring or non-recurring. However, at this stage, it is difficult to make any estimate of the expenditure.



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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Act. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO. XXXVIII OF 2023

*A Bill further to amend the Constitution of India.*

BE it enacted by the Parliament in the Seventy-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2023.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. After article 16 of the Constitution, the following new article shall be inserted, namely:—

Insertion of new  
article 16A.

“16A. Nothing in article 16 or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provisions, by law, for the advancement of any socially and educationally backward classes of citizens or the Scheduled Castes or the Scheduled Tribes, to provide for reservation in matters of employment in private sector companies, undertakings or institutions.”.

Reservation in  
matters of  
employment in  
private sector.

## STATEMENT OF OBJECTS AND REASONS

India is a country of diverse people and religion. Some people have fared better than others and therefore the concept of reservation was introduced in the system to bring at par the marginalized and backward classes of people. Article 16 prohibits discrimination in employment in any government office. However, the Government can allow reservation for any community if they are not adequately represented in services or posts under the State.

In this scenario, when the public sector is shrinking, the provisions for reservation of posts or appointments for weaker sections of the society, as contemplated under article 16(4) or under the Mandal Commission Report, are losing their significance, in so far as protection of the interests of the Scheduled Castes, Scheduled Tribes and Backward Classes are concerned. Moreover, with the funds being raised as loan from Public Sector Banks for their capital, and to get land and other services from the State Government at cheap rates, the private companies have an obligation to provide services including providing employment opportunities to the community.

Therefore, in order to bring the Scheduled Castes, Scheduled Tribes and Backward Classes into the national mainstream, it is proposed that the State shall make special provision for reservation of posts, or appointments in government service and private sector. The Bill seeks to insert new article 16A in the Constitution to allow reservation in matters of employment and job opportunities in private sector companies, undertakings or institutions.

Hence, this Bill.

M. SHANMUGAM.

## BILL No. XXXVII OF 2023

*A Bill to provide for the establishment of a Motor Vehicle Drivers and Other Workers Welfare Fund and to implement measures to promote the welfare of persons engaged in driving and other workers engaged in motor vehicles used for commercial purposes and for matters connected therewith or incidental thereto.*

BE it enacted by the Parliament in the Seventy-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Motor Vehicle Drivers and Other Workers Welfare Fund Act, 2023.

Short title and commencement.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States and for different provisions of this Act, and any reference in any provision to the commencement of this Act, shall, in relation to a State, be construed as a reference to the coming into force of that provision in that State.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Fund" means the Motor Vehicle Drivers and Other Workers Welfare Fund established under section 3 of this Act;

(b) "motor vehicle drivers" means the persons who are drivers of a motor vehicle used for commercial purposes, including two-wheelers, three-wheeler autos, four wheeler taxi, cab, other multi-utility vehicles like tempo and also other commercial vehicles like lorry, truck, oil tanker, water tanker, dipper, dumper, trailer, either directly engaged or through any employer, agency, contractor, whether for wages or not, for transportation of persons, or goods and other materials;

(c) "other workers" means workers like cleaners, driver's assistants who help the drivers while they are engaged in driving of a motor vehicle and such other supporting labourers like road-side mechanics, mechanic assistants etc.; and

(d) "prescribed" means prescribed by rules made under this Act.

Motor Vehicle  
Drivers and  
Other  
Workers  
Welfare Fund.

3. (1) There shall be established a Fund to be called the Motor Vehicle Drivers and Other Workers Welfare Fund for the purpose of implementing various measures to promote the welfare of motor vehicle drivers and other workers engaged in motor vehicles used for commercial purposes.

(2) The Central Government, shall from time to time, after due appropriation made by Parliament by law in this behalf, contribute such sums of money and/or funds, as may be necessary, to carry out the purposes of this Act.

Application  
of Fund.

4. (1) The Fund shall be applied by the Central Government to meet the expenditure incurred in connection with measures and facilities which, in the opinion of that Government, are necessary or expedient to promote the welfare of drivers and other workers engaged in motor vehicles of commercial nature; and in particular—

(a) to defray the cost of such measures for the benefit of such persons directed towards—

(i) the improvement of public health and sanitation, the prevention of disease and the provision and improvement of medical facilities;

(ii) the provision and improvement of water supplies and facilities for washing at the rest rooms;

(iii) the provision and improvement of educational facilities;

(iv) the provision and improvement of housing and recreational facilities including standards of living, nutrition and amelioration of social conditions; and

(v) the provision and improvement of such other welfare measures and facilities as may be prescribed;

(b) to grant loan or subsidy to a State Government, or to a local authority or an employer in aid of any scheme approved by the Central Government for the purposes connected with the welfare of motor vehicle drivers and other workers;

(c) to pay annually grants-in-aid to a State Government, or to a local authority or to an agency which satisfies the prescribed criteria (hereinafter to be referred to as the agency) or to an agency who provides to the satisfaction of the Central Government, welfare measures and facilities of the prescribed standard for the benefit of motor vehicle drivers and other workers;

(d) to meet the allowances, if any, of the members of the State Advisory Committees and the Central Advisory Committee constituted under sections 5 and 6 respectively and the salaries and allowances, if any, of persons appointed under section 8;

(e) any other expenditure which the Central Government may direct to be defrayed from the Fund.

(2) The Central Government shall have power to decide whether any particular expenditure is or is not debitable to the Fund, and its decision shall be final.

5. (1) The Central Government may constitute as many State Advisory Committees as it thinks fit, but not exceeding one for each of the States and Union Territories, to advise the Central Government on such matters arising out of the administration of this Act as may be referred to it by that Government, including matters relating to the application of the Fund.

State  
Advisory  
Committees.

(2) Each State Advisory Committee shall consist of such number of persons as may be appointed to it by the Central Government and the members shall be chosen in such manner and for such term as may be prescribed:

Provided that each State Advisory Committee shall include equal number of members representing the respective State Government, persons providing employment to motor vehicle drivers, persons engaged in the business of motor vehicles, and trade unions representing the motor vehicle drivers:

Provided further that at least one member of every State Advisory Committee shall be a woman.

(3) The Chairman of each State Advisory Committee shall be appointed by the Central Government, in such manner and for such term as may be prescribed; and

(4) The Central Government shall publish in the Official Gazette the names of all members of every State Advisory Committee.

6. (1) The Central Government may constitute a Central Advisory Committee to co-ordinate the work of the State Advisory Committees constituted under section 5 and to advise the Central Government on any matter arising out of the administration of this Act.

Central  
Advisory  
Committee.

(2) The Central Advisory Committee shall consist of such number of persons as may be appointed to it by the Central Government and the members shall be chosen in such manner and for such term as may be prescribed:

Provided that the Central Advisory Committee shall include equal number of members representing the Central Government, persons providing employment to motor vehicle drivers, persons engaged in the business of motor vehicles, and trade unions representing the motor vehicle drivers:

Provided further that at least one member of the Central Advisory Committee shall be a woman.

(3) The Chairman of the Central Advisory Committee shall be appointed by the Central Government, in such manner and for such term as may be prescribed; and

(4) The Central Government shall publish in the Official Gazette the names of all members of the Central Advisory Committee.

7. (1) A State Advisory Committee or the Central Advisory Committee may, at any time and for such period as it thinks fit, co-opt any person or persons to the Advisory Committee.

Power to  
co-opt.

(2) A person co-opted under sub-section (1) shall exercise all the powers and functions of a member under this Act but shall not be entitled to vote.

(3) The State Advisory Committee or the Central Advisory Committee may, if it considers it necessary or expedient so to do, invite any person to attend its meeting and when such person attends any meeting, he or she shall not be entitled to vote thereat.

Appointment of Welfare Commissioners, etc., and their powers.

**8.** (1) The Central Government may appoint as many Welfare Commissioners, Welfare Officers, Inspectors and such other officers and staff as it thinks necessary for carrying out the purposes of this Act.

(2) The Central Government may, by general or special order, direct a Welfare Commissioner to appoint such staff as is considered necessary for carrying out the purposes of this Act.

(3) Every person appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860.

45 of 1860.

(4) Any Welfare Commissioner, Welfare Officer or Inspector may,—

(a) with such assistance, if any, as he or she may think fit, enter at any reasonable time, any place which he or she considers it necessary to enter for carrying out the purposes of this Act;

(b) do within such place anything necessary for the proper discharge of his or her duties; and

(c) exercise such other powers as may be prescribed.

Annual report of the activities financed under the Act.

**9.** The Central Government shall, as soon as may be, after the end of each financial year, cause to be published in the Official Gazette, a report giving an account of its activities carried out under this Act during the previous financial year together with a statement of accounts, in such form and manner as may be prescribed.

Power to call for information.

**10.** The Central Government may require a State Government or a local authority or any such agency to furnish, for the purposes of this Act, such statistical and other information in such form and within such period as may be prescribed.

Power to make rules.

**11.** (1) The Central Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the manner in which the Fund may be applied for the measures and facilities specified in sub-section (1) of section 4;

(b) the composition of the State Advisory Committees and the Central Advisory Committee constituted under sections 5 and 6 respectively, the manner in which the members thereof shall be chosen, the term of office of such members, the allowances, if any, payable to them, and the manner in which the State Advisory Committees and the Central Advisory Committee shall conduct their business;

(c) the recruitment, conditions of service and the duties of all persons appointed under section 8;

(d) the power that may be exercised by a Welfare Commissioner, a Welfare Officer or an Inspector under section 8;

(e) the furnishing to the Central Government by a State Government or a local authority or any such agency of such statistical and other information as may be required to be furnished under section 10;

(f) the forms in which and the period within which statistical and other information are to be furnished under clause (e); and

(g) any other matter which has to be or may be prescribed, or provided for, by rules under this Act.

(3) In making any rule under clauses (e) and (f) of sub-section (2), the Central Government may direct that a breach thereof shall be punishable with fine which may extend to one thousand rupees:

Provided that the Central Government shall have the power to condone any such breach, as it may deem fit.

(4) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both the Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.



## STATEMENT OF OBJECTS AND REASONS

India has the fourth largest automobile industry in the world. It has also become the third largest automobile market in the world, surpassing Japan and Germany. It provides significant contribution to the nation's Gross Domestic Product. However, the working conditions of drivers of commercial vehicles like All India Permit trucks, heavy loaders, multi-utility vehicles like tempo, and other commercial vehicles like lorry, truck, oil tanker, water tanker, dipper, dumper, trailer etc. are pathetic. There are crores and crores of commercial drivers working in the unorganized sector in the country, who are engaged in transportation of goods and materials, including two-wheeler bike drivers engaged by platforms like Swiggy, Zomato, and such other gig workers who are not covered under any welfare schemes, health insurance or social security.

This Bill seeks to establish a Motor Vehicle Drivers Welfare Fund to provide for implementing the requisite social security measures and welfare activities for the motor vehicle drivers and other workers engaged in this field including health insurance, safety, education, recreation and other amenities.

Hence, the Bill.

M. SHANMUGAM.

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for establishment of Motor Vehicle Drivers and Other Workers Welfare Fund which would be utilized to carry out activities for the welfare of motor vehicle drivers and other workers.

Clause 4 of the Bill specifies the purposes for which the Fund can be spent.

Clause 5 provides for establishment of State Advisory Committees and clause 6 for the establishment of Central Advisory Committee, for which expenditure would be incurred by the respective offices as also for payment of allowances to the members of the Committee.

Clause 8 provides for the appointment of Welfare Commissioners, Welfare Officers and Inspectors by the Central Government whose establishment expenditure will be met by the Central Government.

The Bill, therefore, if enacted, will involve certain amount of expenditure from the Consolidated Fund of India. It is not possible at this stage to give the exact amount estimated for the purpose of implementation of this Bill. A non-recurring expenditure of about rupees six hundred crore is also likely to be involved.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill.

Sub-clause (2) of the said clause enumerates the matters in respect of which such rules may be made, which *inter alia*, includes application of fund, composition of State Advisory Committees, Central Advisory Committee, recruitment and conditions of service of members of the Advisory Committees, powers to be exercised by the Welfare Commissioner, Welfare Officer or Inspector and the procedure to be followed for furnishing of information.

The matters in respect of which rules may be made are matters of procedure or administrative details, and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

## BILL NO. L OF 2023

*A Bill further to amend the Representation of the People Act, 1951.*

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Representation of the People (Amendment) Act, 2023. Short title and commencement.  
(2) It shall come into force immediately.

43 of 1951.

2. In the Representation of People Act, 1951, after sub-section (3) of Section 8, the Amendment of Section 8.  
following provisos shall be inserted, namely:—

"Provided that in case of a person who on the date of conviction is a member of Parliament or the Legislature of a State, the disqualification shall take effect from the date of dismissal of the appeal by the Supreme Court against such conviction.

Provided further that at any stage, an appeal or application for revision in respect of the conviction or the sentence shall be preferred within a period of one month and in case such appeal is not preferred within the said period, the disqualification shall be deemed to be effective from the day immediately following the expiration of the said period."

## STATEMENT OF OBJECTS AND REASONS

In the recent years, following the judgment of Hon'ble Supreme Court in the case of Lily Thomas & Union of India, there have been instances where Members of Parliament and State Legislatures, who were falsely implicated by the political rivals, were convicted by the lower courts and subsequently disqualified from their Membership. The Election Commission of India notified & conducted the elections to fill the vacant seats of convicted Members and as a result, other individuals were elected in the by-elections. Later, the convicted Members were acquitted from the higher courts. However, due to election of other individuals as Member of Parliament/State Legislature, the membership of acquitted Members could not be restored.

Hence, the Bill.

JAVEDALI KHAN.

## BILL NO. XLVIII OF 2023

*A Bill further to amend the Constitution of India.*

BE it enacted by the Parliament in the Seventy-fourth Year of the Republic of India as follows:—

Short title and  
commencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 2023.
- (2) It shall come into force immediately.

Amendment of  
article 111.

2. In article 111 of the Constitution,—
  - (i) after the words "President shall", the words "within a period of fifteen days" shall be inserted;
  - (ii) in the proviso,—
    - (a) for the words "as soon as possible", the words "within a period of fifteen days" shall be substituted;
    - (b) for the words "the President shall not withhold assent therefrom", the words "the President shall give his assent therefrom" shall be substituted.

Amendment of  
article 200.

3. In article 200 of the Constitution,—
  - (i) after the words "Governor shall", the words "within a period of fifteen days" shall be inserted;

(ii) in the first proviso, for the words "as soon as possible", the words "within a period of fifteen days" shall be substituted;

(iii) in the second proviso, after the words "for the consideration of the President", the words "within a period of fifteen days from the date of receipt of the Bill" shall be inserted.

**4.** In article 201 of the Constitution,—

Amendment of  
article 201.

(i) after the words "the President shall", the words "within a period of fifteen days" shall be inserted;

(ii) in the proviso, after the words "his consideration", the words "by the Governor within a period of fifteen days" shall be inserted.

## STATEMENT OF OBJECTS AND REASONS

Article 111 of the Constitution grants the President the power to assent to Bills passed by both the Houses of Parliament. This power of the President applies to ordinary Bills, not Money Bills or Constitutional Amendment Bills. Under this article, the President can either assent to the Bill, withhold his assent or send the Bill for reconsideration of the Houses. However, the article does not specify the time period within which the President has to declare his intention regarding assent, withholding assent or sending the Bill for reconsideration. In fact, in 1986, a Bill passed by both the Houses of Parliament was sent for reconsideration of the Houses after a gap of more than four years. It is unlikely that the founding fathers of our Constitution intended to grant an indefinite time to the President to declare his intention.

Similar provisions exist in article 200 of the Constitution, wherein the Governor has been given the same powers in relation to legislature of a State as have been given to the President in relation to the Parliament. Recently, there have been many examples where the Governors in many of the States have not given assent to Bills passed by the State legislatures for indefinite period without taking any decision, which amounts to defeating the will of the people. This is not a good sign for a healthy democracy.

It is therefore felt that the lack of a specific time limit for the President or the Governor to declare their intention regarding the Bills passed by an elected body is not in line with the concept of the supremacy of the elected representatives and a welfare State. In many countries around the World, when a Bill is presented to the President, there is a definite time limit within which the President has to declare his intention. For instance, in the USA, the President on presentation of a Bill to him must declare his intention within 15 days of receipt of such Bill.

Hence, this Bill, seeks to specify a time limit for the President and Governors for giving or withholding their assent, sending the Bill for reconsideration or reserving it for the consideration of the President of India.

A.D. SINGH.



## BILL NO. XLVII OF 2023

*A Bill to provide for special financial assistance to the State of Bihar for providing impetus to the economic capability of the State administration; for implementation of development and welfare schemes for women, children, citizens, Scheduled Castes, Scheduled Tribes, Other Backward Classes and poor people in the State and for the proper utilization of its resources and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

**1.** (1) This Act may be called the Special Financial Assistance to the State of Bihar Act, 2023. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2.** There shall be paid such sums of moneys out of the Consolidated Fund of India, every year, as Parliament may by due appropriation provide, as special financial assistance to the State of Bihar to meet the costs of such schemes of development as may be undertaken by the State with approval of the Government of India for the purpose of promoting the Special financial assistance to the State of Bihar.

welfare of women, children, senior citizens, scheduled castes, scheduled tribes, other backward classes and poor people.

Act not in  
derogation of  
other law.

**3.** The Provisions of this Act shall be in addition to and not in derogation of any other law to be made by Parliament or for the time being in force.

## STATEMENT OF OBJECTS AND REASONS

Bihar is the third largest State of India by population. It has a glorified past as the State was once considered the centre of political and cultural powers and was a great learning place. It is the land where the great empires of Mithila and Magadh flourished during Videha, Maurya and Gupta Kingdoms. Culturally, it is very rich State. It is home to two UNESCO world heritage sites, one at Mahabodhi Temple, Gaya and other at Nalanda Mahavihara, one of the world's oldest universities. Bihar was a major centre for learning where Nalanda and Vikramshila universities were imparting learning to students from many countries.

Unfortunately, Bihar today is one of the backward States in the country. It is lagging behind in terms of social and economic development. Bihar is weakest in health outcome in comparison to other States. Though improved governance in the recent past has led to the economic revival of the State to some extent, there is a lot which is required to be done to improve the lives of people living in Bihar.

There has been a continuous demand for the State Government to grant Special Category status to the State but the same has been denied to the State so far. It is, therefore, high time that special financial assistance may be given to the State for implementing the developmental and welfare schemes for the people of Bihar, particularly, the women, children, senior citizens, scheduled castes, scheduled tribes, other backward classes and poor people.

Hence, this Bill.

A.D. SINGH.

## FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that there shall be paid such sums of moneys out of the Consolidated Fund of India, every year, as Parliament may by due appropriation provide, as special financial assistance to the State of Bihar to meet the costs of such schemes of development and welfare, as may be undertaken by the State with the approval of the Government of India.

2. The Bill, therefor, on enactment, will involve expindutire out of the Consolidated Fund of India for providing special financial assistance to the State of Bihar. As the sums of money which will be given to the State of Bihar as special financial assistance by appropriation by law made by Parliament will be known only after the welfare schemes to be implemented by the State Government with the approval of Government of India are identified and approved, it is not possible to give the estimates of recurring expenditure, which would be involved out of the Consolidated Fund of India at this stage.

3. No non-recurring expenditure is likely to be incurred from the Consolidated Fund of India.

## BILL NO. LII OF 2023

*A Bill further to amend the Indian Penal Code, 1860.*

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 2023.

Short title and  
commencement.

(2) It shall come into force at once.

45 of 1860.

2. After article 377 of the Indian Penal Code, 1860, the following section shall be inserted, namely:—

Insertion of  
new section  
377A.

"**377A.** Whoever voluntarily harms the dignity or right of a dead person, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine."

## STATEMENT OF OBJECTS AND REASONS

In a recent judgment in *Rangaraju and Vajapeyi Vs. State of Karnataka*, the Court has observed that the act of sexual assault on a dead body does not come under any provision of the IPC. The Court has recommended that the Indian Penal Code, 1860 should be amended to make necrophilia, *i.e.*, a sexual attraction or act involving a person engaging in sexual activities with a deceased body, an offence. The Division Bench passed the order acquitting the accused from the charges of raping a 25 year old woman after murdering her.

2. The Supreme Court in its various judgments has held that the right to dignity prevails even after death. In *S. Sethu Raja Vs. The Chief Secretary [W.P. (MD) No. 3888 of 2007]* decided on 28th August, 2007, the petitioner had brought to the court's attention, the Supreme Court's stand on right to accord decent burial or cremation to a dead body, as interpreted from its decision in *Ramsharan Autyanuprasi and Another Vs. Union of India (AIR 1989 Supreme Court 549)* in which it held thus,

"13. It is true that the life in its expanded horizons today includes all that give meaning to a man's life including his tradition, culture and heritage and protection of that heritage in its full measure would certainly come within the encompass of an expanded concept of Art. 21 of the Constitution."

3. Further, the apex court, in *Pt. Parmanand Katara Vs. Union of India & Ors. [1995 (3) SCC 248]* had observed thus,

"..the word and expression 'person' in article 21, would include a dead person in a limited sense and that his rights to his life which includes his right to live with human dignity, to have an extended meaning to treat his dead body with respect, which he would have deserved, had he been alive subject to his tradition, culture and the religion, which he professed. The State must respect a dead person by allowing the body of that dead person to be treated with dignity and unless it is required for the purposes of establishing a crime, to ascertain the cause of death and be subjected to post-mortem or for any scientific investigation, medical education or to save the life of another person in accordance with law, the preservation of the dead body and its disposal in accordance with human dignity."

4. In *Ashray Adhikar Abhiyan Vs. Union of India (AIR 2002 SC 554)*, the Supreme Court had upheld the right of a homeless deceased to have a decent burial as per their religious belief and the corresponding obligation of the State towards such people.

5. Many countries in the world have laws on necrophilia. In the UK, any kind of sexual harassment or inappropriate physical conduct with a dead body is against the law, and conviction in this case can lead to a jail term of six months to two years or a fine. Legislation against necrophilia also exists in Canada, New Zealand and South Africa. In Canada, without using the word necrophilia, it is mentioned that maximum sentence of 5 years can be cited for harming the dignity and rights of a dead body. At the same time, in New Zealand, a provision has been made for a maximum punishment of 2 years regarding this law.

6. It is, therefore, the need of the society that a law for providing punishment for necrophilia should be made by creating a new offence under Indian Penal Code (IPC).

Hence, this Bill.

A.D. SINGH.

## BILL NO. LV OF 2023

*A Bill to provide for compulsory teaching of Lifestyle for Environment (LiFE) in all schools throughout the country in order to enable students towards becoming Pro-Planet People in the 21st century and for matters connected therewith or incidental thereto.*

BE it enacted by the Parliament in the Seventy-fourth Year of the Republic of India as follows:—

**1.** (1) This Act may be called the Compulsory Teaching of Lifestyle for Environment (LiFE) in Schools Act, 2023. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2.** (a) "appropriate Government" means in the case of a State, the Government of that State, and in all other cases, the Central Government; Definitions.

(b) "environment" includes water, air and land and the inter-relationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organism and property;

(c) "lifestyle" means the particular way that a person or group lives and the values and ideas supported by that person or group;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "school" means any school which is recognized by appropriate Government, imparting education up to the primary, middle, secondary and/or senior secondary level, and includes—

(i) a school established, owned or controlled by the appropriate Government or a local authority;

(ii) an aided school receiving aid or grants to meet whole or part of its expenses from the appropriate Government or the local authority;

(iii) a school belonging to a specified category; and

(iv) an unaided school not receiving any kind of aid or grants to meet its expenses from the appropriate Government or the local authority;

(f) "specified category", in relation to a school, means a school such as Kendriya Vidyalaya, Navodaya Vidyalaya, Sainik School or any other school having a distinct character which may be specified, by notification, by the appropriate Government.

Compulsory teaching of Lifestyle for Environment (LiFE) in Schools.

**3.** From such date, as the Central Government may by notification in the Official Gazette specify, the subject of 'Lifestyle for environment' shall be taught in every school as a compulsory subject in such manner as may be prescribed.

Act not in derogation of other laws.

**4.** The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force dealing with the subject-matter of this Act.

Power to make rules.

**5. (1)** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.



## STATEMENT OF OBJECTS AND REASONS

Our civilisational state has espoused the adage *^K/s es h iRk jk qA* (God resides even in a plant as an '*Idea of India*' since centuries. At the 2021 UN Climate Change Conference (UNFCCC COP26), Hon'ble Prime Minister of India Shri Narendra Modi announced Mission LiFE- Lifestyle for Environment, to bring individual behaviours at the forefront of the global climate action narrative.

2. LiFE envisions replacing the prevalent 'use-and-dispose' economy-governed by mindless and destructive consumption-with a circular economy, which would be defined by mindful and deliberate utilization. The Mission LiFE intends to nudge individuals to undertake simple acts in their daily lives that can contribute significantly to climate change when embraced across the world.

3. The youth is the future of our country. Imparting holistic education about the various facets related to the subject of Lifestyle for Environment (LiFE) to children in schools across the country is paramount for ensuring the formation of a 1.4 billion strong community of 'Pro- Planet People' in the 21st century.

Hence, this Bill.

BIPLAB KUMAR DEB.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Act. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO. LIX OF 2023

*A Bill to amend the Mental Healthcare Act, 2017.*

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:

1. (1) This Act may be called the Mental Healthcare (Amendment) Act, 2023.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title and  
commencement.

Amendment  
of section 2.

2. In section 2 of the Mental Healthcare Act, 2017 (hereinafter referred to as the principal Act), in sub-section (I)— 10 of 2017.

(a) after clause (g), the following new clause shall be inserted, namely:—

"(ga) "educational institution" means any recognised school imparting primary, elementary and secondary education, encompassing all types of school managements and categories as per the Unified District Information System for Education Plus (UDISE+) records;"

(b) after clause (zb), the following new clause shall be inserted, namely:-

"(zc) "student" means a person between six to eighteen years of age, who is pursuing any course of study in any educational institution."

Amendment  
of section 3.

3. In section 29 of the principal Act, for sub-section (I), the following shall be substituted, namely:—

"(I) The appropriate Government shall have a duty to plan, design and implement programmes for the promotion of mental health and prevention of mental illness in the country, with special emphasis on programmes catering to the needs of students in educational institutions."

Amendment  
of section 34.

4. In section 34 of the principal Act, in sub-section (I), after clause (f), the following new clause shall be inserted, namely:—

"(fa) Joint Secretary to the Government of India in the Ministry of Education — Member ex officio;"

Insertion of  
new Chapter  
XIIIA.

5. After Chapter XIII of the principal Act, the following new Chapter shall be inserted, namely:—

### "CHAPTER XIIIA

#### RESPONSIBILITIES OF EDUCATIONAL INSTITUTIONS

Responsibilities  
of  
Educational  
Institutions.

**105A.** Every educational institution,—

(a) shall be required to provide access to mental healthcare for students, through referrals to and partnerships with mental health establishments;

(b) shall integrate mental healthcare services into the overall support system of the school, through the appointment of a nodal officer, who has been an employee of the educational institution for at least five years, and may streamline student referrals to nearby mental health establishments within the district;

(c) shall ensure protection of privacy and confidentiality of students while availing all mental health services;

(d) shall undertake initiatives to promote mental health awareness amongst students, and other important stakeholders such as parents and legal guardians and impart education on well-being, stress management, socio-emotional learning, and resilience-building;

(e) shall strive to integrate mental health education, as provided under the National Council of Education Research and Training's 'Training and Resource Material: Health and Wellness of School- going Children' within the curriculum; and organize co-curricular activities and teacher training programs;

(f) shall encourage yoga, meditation, sports and other stress-mitigating activities for students, to increase mental wellbeing of the students; and

(g) shall establish mechanisms for the identification of mental health concerns among students at an early stage."

## STATEMENT OF OBJECTS AND REASONS

India has the largest youth and adolescent population in the world, comprising 27.2 per cent. of the population. Consequently, India's school education system has also expanded substantially with 15 lakh schools, and nearly 26.5 crore students. Such an expansion has also meant that the anxieties, fears, and mental health pressures of students has increased in magnitude, particularly after the COVID-19 pandemic.

2. As per the National Mental Health Survey, 2015-16, the prevalence of mental disorders in the age group of 13-17 years is 7.3 per cent., and nearly equal in both genders. Facing the pressures of adolescence, and an increasingly competitive examination system, students also have an additional burden of resultant mental health challenges. The Mental Healthcare Act, 2017, does address this challenge to a certain extent, by making provisions for the redressal of mental health issues of children. However, the Act fails to categorize students' and youth, particularly in the age group of 13-18, as a primary target group.

3. The proposed amendments to the Mental Healthcare Act, 2017 addresses the mental healthcare needs of students, while also underlining the roles and responsibilities of educational institutions, thus paving the way for holistic redressal of the mental health issues faced by students in the country.

Hence, this Bill.

SURENDRA SINGH NAGAR.

## FINANCIAL MEMORANDUM

Clause 5 of the Bill proposes addition of a new Chapter XIII A in the Mental Healthcare Act, 2017, which provides for the referral of students encountering mental health challenges to mental health establishments and to form partnerships with them for the said purpose as well as various initiatives aimed at promoting mental health awareness and overall well-being, potentially entailing supplementary financial requirements. The Bill, if enacted, would involve both non-recurring and recurring expenditure from the Consolidated Fund of India. However, it is difficult to estimate the exact expenditure involved at this juncture.

## BILL NO. LXI OF 2023

*A Bill further to amend the Right of Children to Free and Compulsory Education Act, 2009.*

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:-

Short title and commencement. **1.** (1) This Act may be called the Right of Children to Free and Compulsory Education (Amendment) Act, 2023.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 27. **2.** In section 27 of the Right of Children to Free and Compulsory Education Act, 2009, the words, "the decennial population census," shall be omitted.

35 of 2009.



## STATEMENT OF OBJECTS AND REASONS

In India, there is an acute shortage of trained and experienced teaching staff in educational institutions. The deployment of school teachers for non-teaching roles, such as collecting data for decennial population census reports and as booth-duty officers in elections, has been a point of contention.

The Annual Status of Education Report (ASER) 2022 shows the lowering quality of education in schools. According to the report, only 20.5 per cent. of class third students in government and private schools could read at class second level in 2022, dropping from 27.3 per cent. in 2018. Only 42.8 per cent. of students in class five could read at least class 2 level text, falling from 50.5 per cent. in 2018. While 69.6 per cent. of children enrolled in class eight in government or private schools could read basic text, compared to 73 per cent. in 2018. A nationwide decline in children's basic arithmetic levels in comparison to 2018 levels for most grades has also been witnessed.

Amidst this education crisis, the deployment of teachers for conducting the census places an enormous burden on schools and jeopardizes the quality of education provided to students. The detrimental consequences of this practice on student learning and overworking teachers call for urgent reform.

The Supreme Court of India tried to come to teachers' aid in 2007, in *Election Commission of India v. St. Mary's School and others*, ruling that government school teachers cannot be forced into non-academic activities like census work, election duties, or polio drop campaigns. Unfinished courses, poor results, high dropout rates, improper class conduction, and disrupted teaching plans are witnessed in schools due to census duty, which requires teachers to visit hundreds of households and collect extensive data. This practice is concerning in light of the prevalence of single-teacher schools and that census duty is mainly allotted to primary school teachers.

Though the Right of Children to Free and Compulsory Primary Education Act, 2009 is rightly focusing on students, the Act must also protect the rights and well-being of teachers. The deployment of school teachers for non-teaching roles such as conducting census compromises the education system's integrity and negatively impacts students. It is our collective responsibility to advocate for a more balanced and responsible approach to utilizing the invaluable human resources of our education system. Teachers should not be subjected to unreasonable workloads and non-teaching tasks, allowing them to focus on their primary role - educating the future of our nation.

Hence this Bill.

TIRUCHI SIVA.